



Disciplinary Policy & Procedure

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MISSION STATEMENT

YHCLT is a co-operative community of schools, working together to provide the best possible standards of education, enabling children to become responsible and articulate citizens, with a local, national and global perspective. We try to demonstrate co-operative ethical values in everything we do:

- we believe in being **open** with colleagues in our schools and beyond;
- we act with **honesty** and integrity, working in a professional and respectful manner in our dealings with everyone;
- we act with social responsibility;
- we treat everyone with **respect**, care and sensitivity;
- we support staff to develop their capacity for **self-help** and to take responsibility for their own actions.

July 2018

Please always check the latest e-version of this policy as small changes may be made.

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Introduction

1. In a small number of cases the disciplinary process has to be used as a way of issuing sanctions/warnings to maintain good standards of behaviour, attendance and job performance.
2. The disciplinary procedure must be fair and must follow the ACAS code of practice. In all cases the employer must, as a minimum, tell the employee the nature of the complaint against them, allowing them the opportunity to challenge the allegations, have a representative with them during any formal meetings which could lead to a sanction being applied and give them the right to appeal the outcome of the process if they wish.
3. The Trust has delegated responsibility to senior managers of the Trust and schools depending on the situation. Details of the delegated responsibilities for dealing with disciplinary matters are outlined in the Scheme of Delegation at appendix 6 attached. The Senior Manager will use her/his discretion when delegating responsibility for investigating disciplinary cases to an appropriate manager.

Policy

4. The disciplinary procedure is applicable to all staff in the School, and will be applied fairly to all. In cases of misconduct which are not gross misconduct, managers will first of all attempt to encourage an improvement in behaviour through normal supervision and informal discussion. Where this does not achieve the required improvement then the formal process will be used.
5. It does not serve the best interests of the School or the employee to avoid the use of the process where it is required, and so it may be used to deal with cases of misconduct and gross misconduct.
6. Prior to final approval by the YHCLT Board this policy has been the subject of consultation with unions and professional associations; their suggested amendments have been taken into consideration and changes made where they can be agreed.
7. The school is committed to ensuring equality of treatment and fairness in the operation of the Disciplinary Policy in line with the Equality Act 2010.

Is Disciplinary the Correct Procedure?

8. Where a person's ability to do the job is in question, then the capability procedure may be a more appropriate process. The key difference is that capability is when an employee CAN'T do it right but has tried; disciplinary is when they WON'T do it right and there is no evidence of the employee trying, or where they just can't be bothered (negligence) or they refuse to follow reasonable directions.

General Principles

9. All cases will be fully investigated, usually by a member of the senior leadership team or as delegated by the Executive Team of the Trust in line with the scheme of delegation at appendix 6.
10. Once a complaint or allegation is received and deemed potentially serious enough to warrant investigation, the employee named in the case will normally be interviewed first and advised of the nature of the allegations in writing.

11. The employee will have the right to be accompanied by a work colleague or trade union representative at any hearing which could lead to a warning being issued or dismissal being decided. There is no legal right to representation at investigatory meetings though this may be helpful and should be requested. The request may be refused if agreeing to it could cause an undue delay to the investigation taking place.
12. There is no right to legal representation and this will only be allowed in exceptional circumstances.
13. All employees subject to the disciplinary procedure will have the right to appeal a warning, dismissal or other sanction.
14. While a disciplinary case is proceeding, matters should be kept confidential by all parties, so far as practicable. Once action has been decided, the result may be announced, but detailed reasons or evidence given should be kept confidential, unless disclosure is required for legal reasons.

Procedure

Informal Stage

15. If a minor issue of conduct or fall in standards comes to the attention of the manager, this should be dealt with as part of the normal supervisory function. Advice, support, counselling, assistance and the possibility of further training should be discussed which it is hoped will allow the employee the chance to modify their behaviour before formal disciplinary action is taken.
16. This counselling and support, although not part of the formal process, should still be confirmed in writing with the employee and be retained on the employee's file for reference purposes, normally only for a period of 6 months.

Formal Action

17. Where there is a more serious case of misconduct, or if an employee fails to improve and maintain that improvement, formal disciplinary action may be taken. Examples of misconduct are given in Appendix 1.
18. When a case of this type comes to the attention of the Head, they should arrange an appropriate person to first undertake a very simple preliminary investigation to establish if there is a case to answer.
19. If it is decided the issue does not need to be taken any further, then the manager should inform anyone involved so far of this and leave it as dealt with. If it is discovered that an accusation was made maliciously, then the manager should pursue this as a different case.
20. If there is a case to answer then an investigating officer should be appointed straight away to establish the facts while they are still fresh in the memory of any witnesses.
21. The investigating officer should be a senior manager who is not involved or implicated in the case. They are appointed by the appropriate Senior Manager to investigate the facts and produce a report at the conclusion of their investigation. The report will be used by the appropriate Senior Manager to decide whether to proceed to a disciplinary hearing or, alternatively, decide that there is no case to answer. If a hearing is to go ahead then the report will form the backbone of the disciplinary pack and be presented to a disciplinary hearing along with other corroborating evidence by the investigator.
22. The first investigatory meeting should normally be held with the person named in the case; this is the opportunity to explain to them the nature of the allegation that has arisen. It also

gives them an early chance to respond. They should be reminded to ask their trade union for support at this stage if they have one.

23. If the accusations are of a serious nature, precautionary suspension should be considered to remove the person named from the situation. The substantive details of the initial findings should be withheld from managers, Governors or Trustees who might hear the case, so as not to prejudice them taking part in future stages of the process if necessary.
24. Only the Executive Head/Headteacher should instigate a suspension in school and the Chair of Governors and the CEO should be informed. In circumstances where the Head is absent then a Deputy Head can approve a suspension in consultation with an appropriate member of the Executive Team, who will inform the Chair of Governors and CEO/CFO.
25. For Trust staff suspensions will be approved by the CEO (for Executive Head or CFO), appropriate Executive Head (for Trust teaching staff) or CFO (for support staff) and the CEO and Chair of the Trust should be informed of the suspension as soon as reasonably practical.

Suspension

26. Suspension is a precautionary measure and should be contemplated in the following circumstances:
 - If the allegation is likely to be gross misconduct if proven.
 - If witnesses are likely to be, or perceive themselves to be, at risk by the person staying at work.
 - If the investigation may be adversely affected by the continued presence of the employee – e.g. in fraud cases or cases of misconduct involving IT equipment - when evidence could be tampered with.
 - If the person under investigation is perceived to be at risk e.g. from harassment as a result of them being under suspicion, Note: the School still has a duty of care to the accused employee.
27. At this stage the school will offer counselling support and provide guidance to any person who has been suspended; their suspension letter will also recommend they seek the support of their union representative if they have one.
28. In certain circumstances it may be appropriate to move an employee to work in a different role as an alternative to suspension. Further guidance is available on the statutory guidance “Keeping children safe in education. Statutory guidance for school and colleges” April 2014 which can be found here:
<https://www.gov.uk/government/publications/keeping-children-safe-in-education> (this document also includes the guidance on Allegations of abuse made against teachers and other staff at part 4).

Notification of Disciplinary Hearing

29. After the investigation stage and if there appears to be a case to answer, the appropriate senior manager will inform the employee in writing, of the intention to hold a disciplinary hearing, the reason for it, panel members (where known at the point of writing), the date/time and place, the right to be accompanied by a trade union representative and the right to call relevant witnesses.
30. Included with the letter should be the investigation report with any appendices to form an information bundle. Only the information/documentation in this pack, provided to the employee 5 days before the hearing, may be used during the hearing as evidence, together with any evidence given orally at the hearing. Late written evidence will only be allowed

exceptionally, and for good reason: for example, to rebut a point raised for the first time by the employee after the report has been completed.

31. The employee will be required to attend the hearing and the letter should give **5 working days'** notice of the hearing to allow the employee time to prepare their case.
32. The delegated Senior Manager should try to make sure that all parties, including the employee's (trade union) representative can be present on the date/time suggested.

Postponement of the Hearing

33. In the event that the employee is unable to attend the hearing through circumstances outside their control or because their chosen representative is unavailable, the employee must consider another date offered by the employer. The new date must be reasonable and not more than 5 working days after the original date (in line with the ACAS code of practice).
34. If the employee declines to attend then they can be given the opportunity to provide a written submission to be read out at the hearing and it may go ahead in their absence. This decision will be made by the Chair of the disciplinary panel taking into account the difficulties that may arise in the school if the matters are left unaddressed for any longer.
35. In the case of sickness absence, the employee's union representative may be able to attend on their behalf and read out the statement and ask questions on their behalf to contribute to the process. If the employee is off work poorly then it may be appropriate to take occupational health advice regarding their fitness to attend the meeting to resolve the matter one way or another. This is particularly important if the process is likely to be the underlying reason for stress related absence. If the delay is likely to be protracted and cause significant impact on the school, the hearing may go ahead in the employee's absence.

The Disciplinary Hearing

36. A summary of the process for the hearing is at Appendix 2.
37. It will be up to the appropriate Executive Head in liaison with the Head in schools to decide who will be on the disciplinary panel (other than where the panel is arranged by the Chair of the Trust) in line with the Scheme of Delegation. The chair will be determined by the panel which will be constituted in line with the Scheme of Delegation attached at appendix 6.
38. The person taking notes is there to record the proceedings, and the notes will be used to assist the chair in making their decision. Notes should be retained with all of the other case material and may be used during any appeal.
39. Both parties will have the opportunity to present and discuss their case including the calling and questioning of witnesses. Witnesses called by either side should attend only for that part of the hearing necessary to give a witness statement and answer questions; they then leave the room.
40. Each side will have the opportunity to consider any further information which may come to light during the hearing, but if this happens and further investigations are needed then the hearing may need to be adjourned.
41. At the conclusion of the hearing, after an adjournment, or as soon as possible thereafter (normally within 2 working days) the chair of the hearing will inform the employee of the outcome. If a disciplinary sanction is to be applied, the employee will be told at what level and advised of their right of appeal as detailed in the appeals section attached at Appendix 4.
42. A checklist for the Panel to confirm that they have considered all of the points necessary to make a fair decision can be found at Appendix 3.

43. Disciplinary action will be confirmed in writing normally within five working days of the disciplinary hearing. If dismissal is the outcome, the date of dismissal is the date the employee is informed of the decision, if dismissed without notice; if dismissed on notice, the date the notice period expires. Dismissal may be communicated orally at a hearing; if done later by writing (and it should always be confirmed in writing) the date that the written notification is received by the employee, so this letter needs to be sent as a matter of urgency and either delivered by hand or sent recorded delivery.

Levels of Disciplinary Action if Allegation is Proven.

44. Please note that it is not necessary to progress through all of the levels of action sequentially; it is possible to move directly to Stage 2, 3 or even 4 providing the level of sanction is fair and can be justified.
45. When the level of sanction is decided the employee will be told this in writing, setting out, where applicable:
- The reason for the sanction including, if applicable, the failure to heed previous warnings.
 - Specific requirements for any improved conduct or performance and the timescale, if this is applicable.
 - The likely outcome of a failure to achieve the required improvement if this is applicable. This may be up to and including dismissal.
 - The time for which the warning remains effective, which will normally be 6 months for level 1 and 12 months for 2 and 3. A copy of the warning letter will remain on the employee's personnel file as a matter of record.
 - The right to appeal the decision.
46. Whenever possible the written warning should be read to the person in question before it is handed over. Letter templates are available in the handbook document 'Disciplinary Sample Letters'. After the hearing it may be appropriate for the employee's line manager to explain the warning and the improvements required – especially if the employee is returning from suspension.

Level 1, Verbal Warning

47. If conduct or performance does not meet acceptable standards and the issue has not previously arisen the employee will normally be given a formal verbal warning.

Level 2, Written Warning

48. A formal written warning will be given in the following circumstances:
- If the verbal warning proves ineffective and fails to produce the required improvement or another breach of discipline occurs within the timescale of the verbal warning, or
 - If an offence is sufficiently serious to warrant action at this level.

Level 3, Final Written Warning

49. A final written warning will be given:
- If there is still a failure to improve and/or conduct is still unsatisfactory.

- Another breach of discipline occurs within the timescale of the verbal warning or a written warning.
- The misconduct is sufficiently serious as to warrant only one written warning but insufficiently serious to justify dismissal (in effect both first and final written warning).

Level 4, Dismissal

Dismissal With Notice - Cumulative Misconduct

50. Dismissal with appropriate notice may be the disciplinary action in the following circumstances.

- Where the employee fails to reach the required level of improvement in conduct and where previous warnings have not been heeded.
- Where another breach of discipline occurs during the timescale of the final written warning (which is not gross misconduct).

Dismissal Without Notice - Where Gross Misconduct is Proven

51. Gross misconduct is defined by ACAS as “enough to overturn the contract between employer and employee” it also says the actions must be “...must be very serious...” - see appendix 1 for some examples.

52. Following the disciplinary hearing and where gross misconduct has been proven, the employee may be dismissed without notice. In this case the date of termination will be the date the employee is informed: either orally at a hearing, or the date the letter advising of the dismissal is received.

Action short of dismissal

53. Where Governors decide that misconduct warrants dismissal but there are extenuating circumstances a final written warning with relegation to a lower graded post could be considered as an alternative. This could only be agreed if Governors have confidence and trust in the employee to improve and remain a good employee following the warning.

54. Relegation can be considered if a suitable lower graded post is available and the employee agrees to accept it without salary protection. In this case, a final written warning would be issued in the normal way.

Right of Appeal

55. When a warning is issued, or an employee has been dismissed, they will be reminded in the letter of the right to appeal, and details will be given of how to appeal. Details of the appeals process is attached at appendices 2 and 4.

Disciplinary Action against Trade Union Representatives

56. If a case is to be brought against a trade union representative, then a full-time official from the union concerned should be contacted as soon as possible and advised that a serious allegation has been made against their official. It is also advisable for an HR professional be involved from the start of the procedure.

Related Documents

Lack of Capability Policy and Procedure.

Appendix 1 - Examples of Misconduct

1. The code of conduct sets out what is expected of everyone who works in the School. Here are examples of the action which could lead to disciplinary action. This is by no means meant to be exhaustive but should be used as a guide.

Gross Misconduct

2. Gross misconduct is misconduct serious enough to destroy the employment contract between the employer and employee and make any further working relationship and Trust difficult, therefore dismissal is justified at the first offence. It can include convictions for acts committed outside working hours as well as those committed at work and can also result from alleged conduct which is investigated by the criminal law authorities, but does not result in conviction.

Examples of Gross Misconduct

3. Commission of one of the examples below is not enough in itself to justify a finding of gross misconduct, unless it is also sufficiently serious to satisfy the definition above in paragraph 51. For example, theft of a biro from School is highly unlikely to constitute gross dismissal. Theft of cash almost certainly would. Making a single offensive or sexist remark (or perhaps even a series of such remarks) may satisfy the definition, but does not necessarily do so: it all depends on context and seriousness, whether any actions satisfy the definition above.
 - a. Any act which could be subject to criminal proceedings such as theft, fraud, sexual misconduct with a pupil and physical assault.
 - b. Acts of verbal or physical abuse against pupils, colleagues or any other person.
 - c. Harassment and bullying - particularly against people on the grounds of race, disability, sex or sexual orientation, religion or belief and other personal harassment.
 - d. Deliberate falsification of qualifications or information which is a stated requirement of employment and/or which would result in financial gain.
 - e. Failure to disclose criminal records accurately on a DBS form.
 - f. Doing unauthorised private work (whether paid or not) during hours when contracted to work for the organisation or during periods of sick leave.
 - g. Serious breaches of safety regulations endangering themselves or other people, including deliberate damage to, neglect or misappropriation of safety equipment.
 - h. Deliberate disclosure without authorisation of information about an employee or pupil.
 - i. Actions which could damage the public image of the School.
 - j. Professional misconduct such as using offensive language – especially in front of students, failure to carry out risk assessments or follow school procedures, which has caused or could cause risk to others.
4. Acts which take place outside the course of employment. This includes, but is not limited to criminal offences committed outside the course of employment. Such behaviour will be considered according to the particular circumstances of the case, but dismissal may result where:
 - a. Employment by the organisation in any way enabled or assisted in the commission of the offence.
 - b. The organisation's property was used to aid the commission of the offence.

- c. Any act which could indicate that continued employment would put at risk those served or employed by the School.
- d. Acts that bring the organisation into disrepute by damaging the good name of the School, for example: fighting; other criminal acts which do not fit the professional behaviour expected by staff in an educational setting; publically criticising colleagues or the School in a damaging and unwarranted manner.

Other Misconduct

- 5. The following are examples of other misconduct which will result in appropriate disciplinary action being taken and appropriate sanctions being handed out. Please note that this list is not exhaustive but gives an indication of actions/behaviour that could constitute misconduct.

Examples of Other Misconduct

- a. Failure to obey a reasonable instruction by the manager or a responsible colleague.
- b. Offensive or abusive behaviour (including any sexual misconduct).
- c. Being under the influence of drink or drugs (other than those which have been medically prescribed) so that performance of duties is detrimentally affected and/or which could endanger anyone's safety.
- d. Unauthorised absence from work or being repeatedly late or not following the absence reporting procedures.
- e. Neglect of duty – unreasonably failing to complete the contractual duties of the post or failing to keep to deadlines/schedules of work reasonably expected of most employees whether or not these are expressly agreed in the job description/contract.
- f. Not accounting properly for any money or property which comes into the possession of an employee during the course of duty.
- g. Misuse or falsification of information including disclosure of information about an employee or pupil to anyone who should not have the information or not disclosing information which should be known for example during recruitment.
- h. Misuse of materials, equipment or resources belonging to the School.
- i. Discrimination against a person on any grounds and particularly including; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- j. Failure to comply with the health and safety policy and procedures including any dangerous or reckless behaviour likely to diminish the safety standards.
- k. Soliciting or accepting gifts or gratuities other than those agreed by a senior manager or in line with the Code of Conduct paragraphs 66 & 67.

Appendix 2 - Process for the Disciplinary Hearing and the Disciplinary Appeal Hearing (if it is a rehearing)

1. Chair introduces all parties and explains the process to be followed.
2. The chair establishes control of the meeting and reminds everyone of the requirement for confidentiality.
3. At an appeal hearing the employee explains their grounds of appeal at this point then the hearing continues as below.
4. Opening statement by the investigating officer.

The investigating officer is invited to present the case with reference to the report submitted to the Head/Chair. Pre-arranged witnesses may be called in support of the case who should leave the room after giving evidence and answering questions. Any other supporting evidence will be introduced and explained to the panel – all of which must have been circulated in advance.

5. At the end of the presentation, questions will be asked of the investigator by:
 - the employee or their representative. This should not turn into a presentation of the facts as they see them.
 - the panel members.
6. Opening statement by the employee or their representative.

The employee or their representative presents the facts as they see them. Pre-arranged witnesses may be called to support their case who should leave the room after giving evidence and answering questions.

7. Questions will be asked by:
 - the investigator although this should not turn into a reiteration of the facts as they see them.
 - the panel.
8. Summing up by the investigating officer.

The investigator is invited to make any final points.

9. Summing up by the employee.

The employee or their representative is invited to make any final points.

10. Panel members consider the matter.

All parties leave the room except the panel and any adviser working with the panel to take notes and assist with the decision making.

11. After the decision is made, all parties will be recalled for the decision (except witnesses).

The chair of the panel will give the decision and explain the reasoning, point by point if necessary. The employee will be told of their right to appeal the decision to a different person/panel.

12. The decision will be confirmed in writing, by the chair of the panel, within 5 working days.

Note

13. In the event that further information or clarification is needed at any stage from witnesses or others who have left the meeting, then both parties should return to the meeting before questions are asked. Each party can question or comment upon this additional information.
14. If the facts are disputed the Head/Panel should decide on the balance of probability what version of the facts they accept.
15. If new facts emerge during the presentation of either side which require further investigation, the hearing may have to be adjourned to reconvene when the investigation is completed.

Appendix 3 - Making the Decision

In order for the dismissal to be accepted as fair the Panel will need to ensure their action satisfies five cardinal points:

- Has there been as much investigation as is reasonable in the circumstances?
- Do the Panel genuinely believe that the employee has committed the misconduct?
- Have the Panel reasonable grounds on which to sustain that belief?
- Is the misconduct sufficiently serious to justify the disciplinary decision the Panel are contemplating?
- Is the decision within the band of reasonable responses of a reasonable employer in the circumstances?

Appendix 4 - Dealing with Appeals

1. Should an employee be dissatisfied with the result of a management decision made against them, they may ask for it to be referred to the appeals panel.
2. Those considering the appeal will have the authority not only to reject or allow the appeal, but also in circumstances where new evidence comes to light, to substitute a different outcome, which is greater or lesser. In most cases the appeal will be heard by the Governors/ Trustees as agreed in the scheme of delegation.

Timescales

3. The employee must lodge their appeal in writing to the person who sent them the original decision letter within 5 working days of receipt of the letter, setting out the reasons for their appeal, including any new evidence.
4. The appeal hearing should normally be held within 10 working days of the receipt of the letter of appeal. The manager receiving the appeal should arrange for the meeting to take place ensuring that all parties can be present. Should this not be possible, the manager must write to the employee explaining the reasons for the delay in hearing the appeal.
5. The appellant will be given 5 working days' written notice of the date and time of the appeal hearing and will be reminded of their right to be represented at the meeting. A copy of the report, with any papers to be considered by the panel, will be sent to the appellant and they will be invited to submit a response or supporting papers for consideration to arrive at least 2 days before the hearing.

Format of the appeal

6. Any appeal should clearly state what the employee is appealing against and the grounds for their appeal should not just be that they disagree with the outcome. They will fall usually into one of the following categories:
 - i) That the process of the investigation was unfair.
 - ii) That the conduct of the hearing did not follow the agreed procedure.
 - iii) That the decision of the hearing did not consider all the facts and/or essential information was ignored.
 - iv) The outcome is unfair in relation to the findings.

Appeal panel or Chair

7. The person receiving the appeal must make the appropriate Head aware of its receipt (or the CEO/CFO for Trust staff); the Chair of Governors (or Chair of the Trust Board if appropriate) should also be advised. The Chair will decide who should hear the appeal taking into account HR advice and the following:
 - i) That those hearing the appeal must have not previously had significant involvement in the case.
 - ii) That those hearing the appeal will be at a management level equal to or higher than the manager who made the decision against which the employee is appealing.
 - iii) That all appeals against dismissal, will be heard by at least one Trustee or Governor as part of a panel of three.

Appeal pack to be circulated and considered by the Chair/panel

8. The appeal pack should include:
 - I. all of the pack considered by the original panel
 - II. any papers tabled and accepted on the day of the original hearing.
 - III. the outcome letter and notes of the original hearing
 - IV. the letter of appeal with any supporting documents
 - V. a management response to the appeal, if appropriate

Appropriate Process for the Appeal - Limited Appeal or Re-hearing?

9. Once the appeal is received, the Chair of the panel will scrutinise the papers and will decide if a full re-hearing is necessary or a limited appeal can be held to consider the matters that are the subject of the appeal. The employee should be informed in the letter inviting them to the hearing if the hearing will be heard as a limited appeal so that they can prepare. A copy of the same letter should be sent to the investigator.

Limited Appeal

10. Where the focus of the appeal is that either the process of the investigation or the conduct of the hearing are the main points of appeal then a limited appeal will usually be appropriate and in this case the panel will focus on those details. The Chair of the stage one hearing will usually be called as a witness to accompany the investigating officer.
11. The order of the events at the limited appeal will be the same as the re-hearing.

Re-hearing

12. In most cases a full re-hearing will be necessary. This is likely to be particularly appropriate where the appellant is complaining about the fairness of the decision in all the circumstances or where they state that the panel did not consider all the facts.

The hearing

13. The employee should understand that an appeal hearing will review the management decision which may mean reviewing the whole case. The hearing will focus on any disputed issues, but it may also cover procedural matters, the fairness of the original decision and the emergence of any new evidence that has come to light since the original hearing and could have affected that decision.

Sickness or inability to get representation

14. In the event that the appellant is unable to get representation on the date arranged, the meeting will be re-scheduled once to a date within 5 working days of the original hearing.
15. The decision to proceed with a hearing in the absence of a key witness or the appellant will be made by the Chair (with HR advice where it is a complicated case), taking into account their ability to consider all the facts versus the difficulties that may arise in the school if the matters are left unaddressed for a long time.
16. Where the employee is signed unfit for work, or unwilling to attend the Trust will accept a written submission. It would normally be acceptable for their union representative to attend the hearing on their behalf to deliver the statement and ask questions.
17. If they refuse to participate in the process further the appeal may go ahead in their absence or it may be decided that they have dropped their appeal and the process will end.

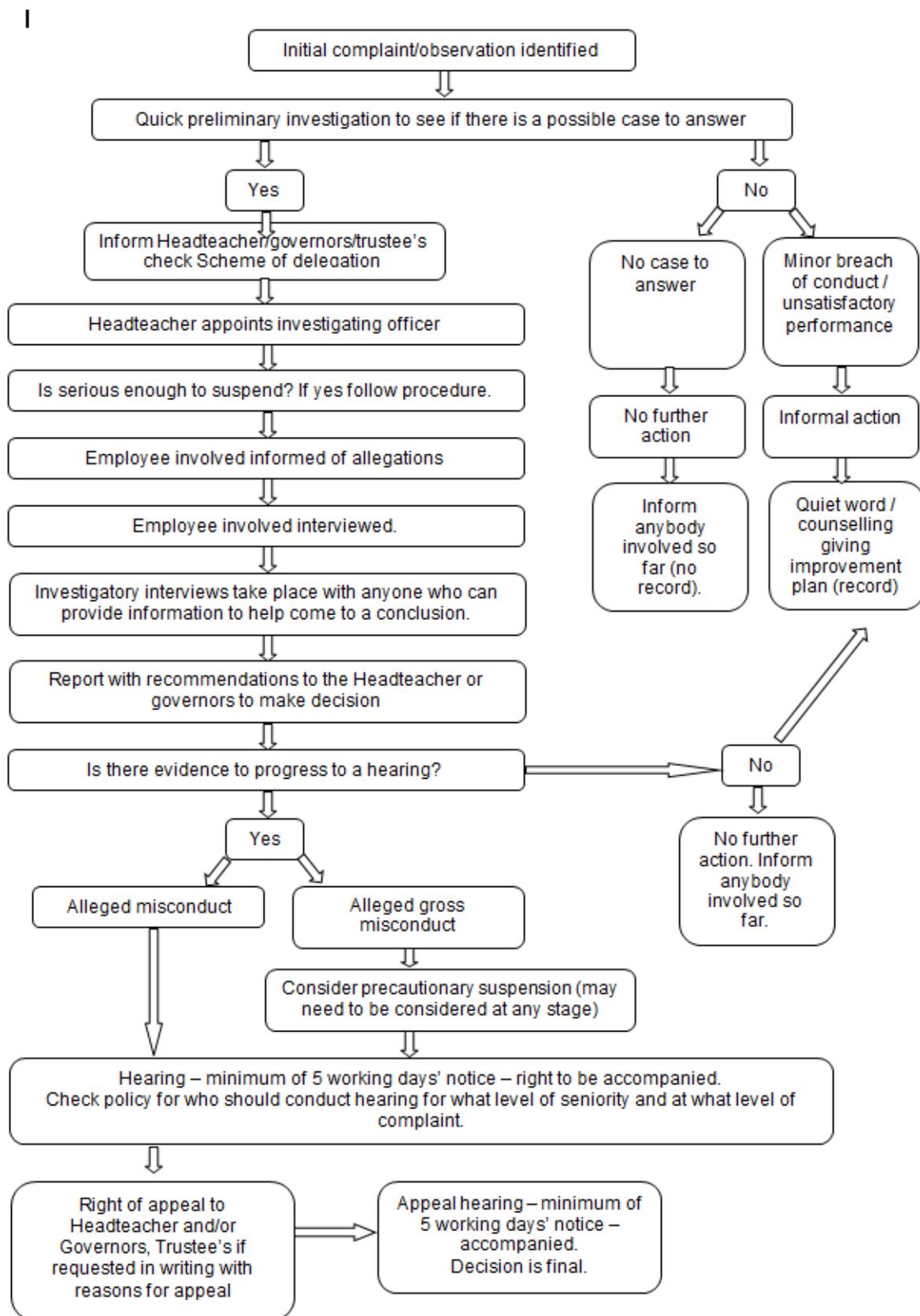
The Appeal Hearing

18. The procedure for the appeal hearing is slightly different to the original hearing - the employee speaks first to explain why they are appealing against the original decision and then the hearing continues in the same format. The recommended procedure is attached at appendix 1.
19. The decision of the chair or panel hearing the appeal may be one of the following:
 - I. To reject the appeal, i.e. the original decision was correct. Under these circumstances, the original sanction will stand. Should the original decision have been dismissal, the effective date of termination shall be the date on which the employee was originally dismissed.
 - II. It is possible for the chair of the panel to decide to increase the sanction following consideration of substantial new evidence that was not previously available but is now available to the appeal hearing. In this case the new evidence should have been provided in the appeal pack at least 5 working days prior to the hearing to give the employee the chance to respond to it.

- III. To uphold the appeal partially. If the appeal is partially upheld, the original decision may be reduced to a lesser one, e.g. a disciplinary first written warning to a verbal warning.
 - IV. To fully uphold the appeal. If the appeal is fully upheld, the original decision will be regarded as null and void. The Chair/panel will recommend the next steps to be taken to implement the decision.
20. In exceptional circumstances, the appeal panel may decide that the hearing should be adjourned pending the investigation of new evidence presented by either side. In such circumstances, an HR professional will advise on the process to be followed.

The decision of the panel hearing the appeal is final and there is no further right of appeal

Appendix 5 - Disciplinary process flowchart



Appendix 6 - Scheme of delegation

ref	Topic	Decision/Responsibility	Trustee	LGB	CEO	Exec Head	Head teacher	Head of school	CFO	Notes * = Responsibility to approve/determine (*) = Advise
	Dismissal/ disciplinary									
27	Dismissal/ disciplinary	Approve redundancy selection criteria each time	*		*	*			*	Criteria are tailored to the reason in line with outline criteria in policy. LGB informed/involved.
28	Dismissal/ disciplinary	Approve (or end) suspension of CEO	*							Chair of Trustees (or in absence Vice Chair)
29	Dismissal/ disciplinary	Approve (or end) suspension of Trust staff	*		*					In absence of CEO EHT or CFO can approve.
30	Dismissal/ disciplinary	Approve suspension (or end) of Head of school/ Headteacher	*		*	(*)				if possible one trustee and CEO involved
31	Dismissal/ disciplinary	Approve suspension (or end) suspension of other school staff			*	*	*	(*)	*	CEO to be informed of teacher suspensions; CFO to be informed of support staff suspensions.
	Dismissal	Hearings likely to lead to dismissal								For all disciplinary, capability or redundancy cases ref 32 - 39 a panel of 3 is aimed for, made up from * as appropriate plus HR
33	Dismissal	Dismiss CEO	*							
34	Dismissal	Dismiss senior staff with Trust wide remit	*		*					CEO plus at least 1 trustee on panel of 3
35	Dismissal	Dismiss Head of school or Headteacher	*		*	*				LGB informed/involved

ref	Topic	Decision/Responsibility	Trustee	LGB	CEO	Exec Head	Head teacher	Head of school	CFO	Notes * = Responsibility to approve/determine (*) = Advise
36	Dismissal	Dismiss school leadership teachers	*		*	*	(*)	(*)		Panel of 3 - at least one Trustee along with Exec Head, CEO or as appropriate.
37	Dismissal	Dismiss support staff over grade 7				*	*	(*)	*	CEO or HT/EHT from other schools may replace the Head CEO
38	Dismissal	Dismiss teachers	*	*	*	*	*	(*)		Panel of 3 - including Executive Head or Head from another school, plus at least one Governor or Trustee.
39a	Dismissal	Dismiss support staff below grade 7 - Trust staff				*	*	*	*	Panel of 3 or at least 2 advised by HR. Panel = CFO plus another member of trust senior staff.
39	Dismissal	Dismiss support staff below grade 7 - schools				*	*	(*)	*	Panel of 3 or at least 2 advised by HR. Panel = Head (or an appropriate senior manager delegated by Headteacher) plus a Governor
40	Dismissal	Determine appeals against dismissal	*		*	*			*	Independent panel usually at level above those making the dismissal decision.