

PHOENIX COLLEGE



STAFF DISCIPLINARY PROCEDURE

Policy Statement:

This policy sets out the procedure set down by the Local Authority in order to provide a fair and consistent method of dealing with any unsatisfactory conduct of employees. The procedure covers all employees of Phoenix College. It does not apply to matters relating to an employee's capability, as assessed by reference to skill, aptitude, health, or other physical or mental quality, for which separate capability procedures exist. It is expected as a normal part of good practice that managers and employees should make every effort to resolve issues without recourse to the formal disciplinary procedure.

It is the policy of the Governing Body to constitute panels to review matters arising under this policy from among those governors suitable and available at any given time.

This policy will be implemented in the light of our commitment to ensuring that all members of our community are equally valued. There is no discrimination arising from disability, ethnicity or gender.

CONTENTS

This document has five main sections:

Section 1: The purpose, scope and principles of the procedure.

This sets out the reason for the procedure, describes who is covered by it and the principle of natural justice contained in it.

Section 2: Preamble – General Principles

Section 3: Disciplinary Procedure

This sets out the procedure to be followed to ensure fairness and consistency.

Section 4: Appeals Process

This sets out the process for appeal against disciplinary action.

Section 5: Disciplinary Rules

These set the standards of conduct at work and identify some breaches in standards which constitute misconduct and gross misconduct.

Appendix Process flowchart

This model procedure has been agreed between representatives of the recognised trades unions, the Local Authority and representatives of the Head teachers Forum.

SECTION 1: PURPOSE, SCOPE AND PRINCIPLES

PURPOSE

- * To provide a fair and consistent method of dealing with any unsatisfactory conduct of employees
- * To give examples of unacceptable conduct
- * To meet statutory requirements

SCOPE

Employees covered by the procedure:

ALL employees of Phoenix College are covered by this procedure.

Disciplinary matters involving Head teachers will be dealt with under this procedure. In the event that such a situation occurs, it will for the Chair of Governors to process the matter using the Governing Body Panel and Appeal process described within this procedure. The Chair of Governors will work in conjunction with the Director of Education and Children's Services in ensuring that the disciplinary process applied is consistent with the principles of this procedure as well as good practice, taking appropriate HR advice.

The procedure does not apply to matters relating to an employee's capability, as assessed by reference to skill, aptitude, health or other physical or mental quality. (See separate capability procedures).

PRINCIPLES

The following important principles are encompassed within this procedure:

- (a) it incorporates the provisions of the ACAS Code of Practice on Disciplinary and Grievance Procedures 2004 and the Employment Act (Dispute Resolution) Regulations 2004, and has been agreed between the Council and its recognised trade unions;
- (b) it will not contradict any current or future national agreement;
- (c) it fulfils the legal requirements placed upon School Governing Bodies under the Schools Standards and Framework Act 1998 to have appropriate mechanisms in place to deal with disciplinary and dismissal issues.
- (d) employees will be informed of the School's disciplinary rules and procedure;
- (e) employees will know the nature of the allegations made against them;
- (f) employees will be given an opportunity to state their case before any disciplinary decision is reached;

- (g) there will be a full and proper investigation and presentation of the facts;
 - (h) an employee may be accompanied by a trade union representative or a representative of their choice;
 - (l) there will be a right of appeal against a formal disciplinary decision;
 - (j) an employee would not be dismissed for a first act of unsatisfactory conduct except in a case of gross misconduct;
 - (k) the procedure will be used primarily to help and encourage employees to improve, rather than to impose a punishment;
 - (l) the employee will have a written explanation for any disciplinary action taken and make sure they know what improvement is expected;
 - (m) issues will be dealt with as thoroughly and promptly as possible
-

The contents and operation of this procedure will be reviewed as necessary by management and the joint trade unions. The first review will be undertaken two years after the formal implementation date.

SECTION 2: PREAMBLE – GENERAL PRINCIPLES

1. Authority to take disciplinary action

Every employee with managerial or supervisory responsibilities is authorised to verbally reprimand employees within the scope of their responsibility in the normal course of managing an employee's performance. More serious disciplinary action may only be taken by Head teachers and other managers within the school who are designated as having such authority by a decision of the Governing Body. These managers are referred to as 'Designated Officers' in this procedure. As a general rule 'Designated Officers' will be senior managers within the school and will have the authority to make a disciplinary award up to but not including dismissal.

Recommendations to dismiss an employee can only be taken by a Panel of the Governing Body which has been set up to receive a recommendation for dismissal from a Designated Officer (normally the Head teacher). In Community Schools the Panel can recommend to the Local Authority (LA) that an employee's contract of employment shall be terminated with or without notice. In other schools where the Governing Body is also the employer, the Panel can make this decision without reference to the Local Authority.

2. Designated Officers

Designated Officers shall be responsible for ensuring that the disciplinary procedure is properly followed and, in particular, shall have the right to initiate an investigation, hold disciplinary hearings and take disciplinary action. Only Staff designated by the Governing Body (ie. Who are Designated Officers) shall have the right to suspend staff. Any case which may lead to suspension shall always be referred to the Head teacher. It should be noted that suspension is not always necessary or appropriate and each case should be judge on its merits. It is inappropriate to pre-judge the outcome of any disciplinary action. However, if there is a possibility, due to the nature of the unsatisfactory conduct, that dismissal may be the outcome, the case should be referred immediately to a Designated Officer who has the authority to dismiss. That will usually be the Head teacher.

The list of Designated Officers approved by the Governing Body shall be reviewed and updated to reflect changes in the staffing structure and on an annual basis.

The Designated Officer in any particular case will normally be the line manager responsible for the area where the employee concerned works. However, it is open to the Head teacher to nominate an alternative person where they consider it is in the interest of the application of the disciplinary procedure to do so.

It is expected that all Designated Officers will have had appropriate training in dealing with conduct issues. Where a Designated Officer has not yet had training, then advice and guidance in following this procedure must be sought from an appropriate Human Resources provider.

3. Trade Union Representatives

Where the disciplinary procedure is to be applied to accredited trades union representatives (stewards), no formal action will be taken until the case has been discussed with a full-time official of the recognised trade union. Removal from the workplace may occur without this prior discussion, in exceptional circumstances and in the absence of a full time official (e.g. outside normal office hours). The Head of HR must be informed of these cases and the appropriate Designated Officer must ensure the trade union official is informed as quickly as possible.

4. Time Limits

Time limits referred to in the procedure may be varied by agreement between the parties involved in any disciplinary case. A 'working day' shall mean Monday to Friday (inclusive), excluding public/bank holidays, and that the number of working days will commence from the day following receipt of the written confirmation of the disciplinary action/decision at each appeal

stage. A formal request for deferment, by either side, will not be unreasonably refused and will not normally exceed five working days. Unless there are exceptional circumstances, no member of staff will be asked to attend a meeting under the procedure on a day when they are not contracted to work.

Where a period of improved conduct (including attendance) is set, this period shall have regard for the circumstances of the individual's contract of employment and the patterns and frequency of days on which the employee is contracted to work. Such periods for improvement must be reasonable in all the circumstances of the case.

5. Suspension

Where there is an allegation, or potential allegation of gross misconduct, i.e. conduct which may result in dismissal, the employee should be suspended from duty. Such a suspension is precautionary, is not disciplinary action in itself and does not imply any prejudgement of the outcome of any further investigation. In exceptional circumstances, an employee may be temporarily relocated to an alternative workplace where there is an allegation of misconduct and it is considered unsuitable or inappropriate for the employee to remain at their place of work. Managers should note that an employee should not be suspended other than for potential gross misconduct, and should bear in mind the employer's duty of care in respect of the potential impact of suspension from duty on the individual's personal and career prospects and the difficulties arising with reintegration to the workplace following a period of suspension.

Whilst only a senior Designated Officer (Head teacher) can formally suspend from duty, in the absence of a senior Designated Officer an employee's manager/supervisor may remove them from their place of work immediately, where they consider it is appropriate to do so in the interest of the School or other staff with whom the employee works. The removal from work should be confirmed in writing as suspension by a senior Designated Officer within two working days. The employee should be advised of the reasons for the suspension, any conditions relating to it, the proposed action of the Designated Officer and an estimate of the time the process will take.

The suspended employee should remain available to assist with, or participate in, the disciplinary process. A suspended employee will not be able to take annual leave without the agreement of the Designated Officer, with the exception of pre-booked annual leave, which must be notified to the Designated Officer.

An employee can be suspended at any stage in the disciplinary process where it is considered appropriate, e.g. where further information comes to light. An employee will receive full pay whilst on suspension. This will be "normal pay" (which will take account of non-contractual payments if they

are regular in their nature and deemed to be appropriate to include) averaged over the previous 12 week period.

6. Verbal Reprimands and Verbal Warnings

Any supervisor or manager with supervisory responsibility may have occasion to verbally reprimand an employee in the normal course of managing an employee's performance. A verbal reprimand may be described as a rebuke from a line manager indicating that the conduct is not acceptable. Key points to remember are:

- This should take the form of a discussion with the employee and should not turn into a disciplinary hearing
- The employee should fully understand the outcome
- A note of reprimand should be recorded as part of 1:1/supervision

A verbal warning may be given, which would need to be approved by a Designated Officer and should be recorded as part of the supervision record. A verbal warning is a more serious rebuke indicating that a further occurrence of unsatisfactory conduct could result in formal disciplinary action being taken. A verbal warning may, similarly, be given at the end of an investigation that is not to be formally pursued onto stage 3 of the procedure. The employee will be informed that further unsatisfactory conduct following a verbal warning would leave them open to further, formal, action being taken under the disciplinary procedure. Key points to remember are:

- This should take the form of a discussion with the employee and should not turn into a disciplinary hearing
- The supervisor should establish the standards that need to be achieved, work through any joint or individual actions that need to be taken and identify the possible consequences of failing to meet the desired standards
- A note of the verbal warning may be recorded as part of 1:1/supervision

There will be no right of appeal to a verbal warning as they are given outside the formal procedure. Similarly, although an employee may be given the opportunity to be accompanied or represented when a verbal warning is given this is not an entitlement at this stage under this procedure. However, the employee should be advised that they may seek advice from their trade union representative. The employee may record a response to be kept with the record of the verbal warning. Verbal warnings will not be given as a sanction as a result of a disciplinary hearing, unless it is apparent to the Designated Officer, following a hearing, that a formal sanction is not appropriate.

Verbal warnings will remain in force for a minimum of 3 months and a maximum of 6 months, after which the record will be disregarded. The Designated Officer has the discretion to change the time limits depending on the nature of the situation.

Verbal reprimands and verbal warnings do not constitute formal disciplinary action.

7. Disciplinary Records

Records of disciplinary action will be kept on the employee's personal file with a copy for their personal file held in the HR department. A disciplinary sanction may be reviewed no earlier than 6 months and no later than 12 months after being applied. This review will take account of how the employee has met any standards and guidelines for improvement, and the sanction may be removed from file at this time. Records will be automatically disregarded (i.e. not counted in any future disciplinary action) and expunged from the personal file after 15 months satisfactory conduct, unless already removed on review. Records will not be kept for more than 15 months before being disregarded and expunged from the file, except in exceptional circumstances when the records may be retained. In such cases the employee must be informed and told of the reason.

The records will be kept under confidential conditions by the Directorate HR teams. Employees can examine their own personal file records on request.

8. Criminal Offences outside work

The School will treat seriously any employee who is charged with a criminal offence, although being charged with, or convicted of, a criminal offence away from work does not automatically lead to dismissal. It would depend on the offence, its seriousness and the effect on the employee's ability to continue in the job, or on the School's/ Council's credibility with the public.

9. Right to be accompanied

Employees have a statutory right to be accompanied by a trade union or other representative of their choice during the formal stages of the disciplinary procedure. Informal discussions or meetings do not attract the right to be accompanied (please see para 15 above).

10. Refusal to take part in the procedure

If an employee refuses to take part in the disciplinary procedure, the School will write to the employee explaining that disciplinary action may have to be taken against them in their absence, based on the information available.

It is in the interest of all parties involved in any allegation of unsatisfactory conduct to co-operate as fully as they can, to ensure the process is completed as quickly and fairly as possible.

11. Role of the HR Advisor

Help from HR is available at all times and managers are encouraged to seek it, especially in more complex cases. Designated Officers will decide whether they wish to be accompanied at a hearing by an HR Advisor. However, for cases where final written warnings and dismissal are a potential sanction, an HR Advisor must be present. Similarly, appeals to the Appeals Panel of the Governing Body will also require an HR Advisor to be present.

It is important to note that the HR Advisor will attend any disciplinary or appeal hearing in an advisory capacity only. All disciplinary or appeal decisions remain the responsibility of the Designated Officer or panel. The HR Advisor is there to assist the Designated Officer or the Appeals Officer or panel to deal with the hearing in a proper manner and to advise on matters such as employment law, precedent and good HR practice and procedure.

It should be noted that in Community Schools the decision to dismiss is made by way of a recommendation from the Governing Body to the LA. Schools who do not directly access HR advice from Reading Borough Council have a legal duty to discuss the case with the LA when considering whether to make a recommendation to dismiss and before such a decision is taken.

12. Grievance

Employees who wish to make a complaint about their treatment under this procedure may consider submitting a formal grievance under the School's Grievance procedure. If the Designated Officer feels that an investigation is warranted, he/she may decide to suspend the disciplinary action until the outcome of the grievance has been determined. It is likely that investigations will only be suspended on rare occasions.

SECTION 3: DISCIPLINARY PROCEDURE

STAGE 1 – ALLEGATION OF UNSATISFACTORY CONDUCT

ALLEGATIONS OF UNSATISFACTORY CONDUCT – ACTION OUTSIDE OF THE DISCIPLINARY PROCEDURE

There are occasions when allegations come to light where it is not appropriate for the immediate supervisor to take action or to interview the employee before consulting with other bodies or authorities. Such situations may arise before the start of any investigation or during the course of an investigation itself.

If these allegations concern –

- ◆ Potentially criminal activity involving theft, fraud or other forms of deception

◆ Action or behaviour which endangers the safety or wellbeing of clients or users of Council Services

Then it is necessary to involve the Council's Audit Dept, Police or Adult/Child Protection Officer, LEA Lead Officer for Child Protection.

It may be necessary to make a referral to a regulatory or statutory body at this stage (eg General Social Care Council (GSCC)).

If the allegation falls within the categories described above, you should seek immediate guidance from your HR Adviser before meeting with the member(s) of staff

If evidence of potential fraud and/or other forms of inappropriate or unlawful behaviour described above come to light in the course of an investigation you should seek further advice about what other forms of referral may be needed immediately before proceeding further.

1. Whenever there is an allegation of unsatisfactory conduct about an employee that may lead to formal disciplinary action, that allegation will be put to the member of staff concerned by his/her immediate supervisor or manager, who must make clear that the meeting is under Stage 1 of the procedure, and an explanation requested.

2. The employee should be informed of his/her right to be accompanied by a trade union or other representative of their choice.

3. The immediate supervisor or manager must then decide, as a result of this initial discussion whether the matter should be referred to a Designated Officer/Head teacher.

4. The Designated Officer/Head teacher will decide:

- if Stage 2 of the procedure should be implemented.

- if it is not appropriate to invoke Stage 2 of the procedure, then he or she can decide to give the employee a verbal warning. They should make it clear that repeated unsatisfactory conduct could result in action being taken under the disciplinary procedure.

- if no further action is required, that the immediate supervisor or manager will confirm this decision. However, it may also be decided to continue to monitor the employee's conduct for a further period of time

STAGE 2 – THE INVESTIGATION

5. It is important that an investigation is carried out before a decision is to be made regarding any formal action, other than suspension, within the procedure. Consideration will need to be given as to whether it is appropriate to suspend the employee if this has not already happened.

6. The Designated Officer/Head teacher will inform the employee that an investigation will be carried out. The Designated Officer/Head teacher may appoint someone to carry out this investigation. This will usually be the employee's manager, although the Designated Officer/Head teacher may ask another person to carry out the investigation if this is more appropriate. Quick but thorough investigation is important.

7. As part of the investigation, the investigating officer will interview the employee and any other relevant witnesses regarding the incident/allegation and, where possible, obtain written statements and collect relevant documentation. The employee should be clear that the interview is part of the investigation, not part of a disciplinary hearing. The person carrying out the investigation should be satisfied that they have all the relevant facts and that they have been as thorough as possible. The findings and conclusions should be presented to the Designated Officer/Head teacher. At this stage it is still possible that the Designated Officer/Head teacher may feel that the case should not be pursued to stage 3 of the procedure, in which case they may dismiss the allegation and/or issue a verbal warning.

8. Where the Designated Officer/Head teacher believes there is a case to answer the employee will be informed of the decision and that a disciplinary hearing is required under stage 3. The Designated Officer/Head teacher will arrange for this to take place as soon as it is reasonably practical and the role of

Designated Officer will pass to a Panel of at least two but not more than four members of the Governing Body for the purposes of the hearing

9. Where the Designated Officer/Head teacher believes there is no case to answer, s/he will confirm this decision and may require a further period of monitoring the employee's conduct.

STAGE 3 – THE DISCIPLINARY HEARING

1. The Designated Officer/ Panel may be accompanied at the hearing by an HR Officer, who will act in an advisory capacity only. The decision as to what action to take will rest with the Designated Officer/Panel.

2. The employee should be informed in writing of the intended disciplinary hearing, giving at least 5 working days notice. More notice should be given in complex cases to enable the employee to prepare a response. A formal request by the employee for the deferment of a hearing may be considered and will not be unreasonably refused. Such a deferment will not normally be for longer than five working days. The letter giving notice of the hearing should contain the following details:

- the date, time and location of the hearing
- the fact that the hearing is within the disciplinary procedure

- the nature and details of the allegation
- identity of the person conducting the hearing and any HR Advisor
- employee's rights to representation
- any accompanying documents and witnesses to be called by the manager
- whether the allegation(s) (or any of them) fall within the categories of gross misconduct and may therefore result in dismissal
- a reminder of:

i. the employee's right to produce any witnesses or documents in support of their case

ii. that details must be copied to the manager not less than 3 working days before the hearing takes place (in exceptional circumstances, genuinely new evidence may become available which the Designated Officer/Panel may accept at the hearing)

- a copy of the disciplinary procedure and the relevant disciplinary rules.

3. It is the employee's responsibility to inform their trade union representative and witnesses of the date, time and place when they are required to give evidence.

4. Whilst the conduct of the hearing is the responsibility of the Designated Officer/Panel he or she will ensure that the general format is as follows:

- notes will be taken and kept on file
- one of the panel will chair the hearing, introducing those present and stating the purpose of the hearing
- the Head teacher/manager will then put the case against the employee and present the supporting facts and material and may call witnesses in support of the case.
- the employee and/or their representative will be given an opportunity to ask questions of the Head teacher/manager and any witnesses appearing to support the management case
- the employee, or employee's representative will state their case, calling any supporting evidence and witnesses,
- the Head teacher/manager shall be given an opportunity to ask questions of the employee/the employee's representative and any witnesses appearing on behalf of the employee

- the Designated Officer/ Panel may ask any questions as they consider appropriate of any of the parties present
- the Head teacher/manager will summarise management's case and supporting evidence and facts
- the employee, or employee's representative will summarise their case, including any relevant mitigating circumstances.

5. Before reaching a decision the Designated Officer/Panel should:

- adjourn the hearing to ensure that the Designated Officer/Panel is clear about the facts
- if the facts are disputed, decide on the balance of probability which are correct, remembering that any decision should be reasonable taking all circumstances into account
- consider any mitigating circumstances
- consider the employee's service and disciplinary record
- consider penalties applied to similar cases in the past, with a view to ensuring so far as reasonable, consistency of decision making
- consider the appropriate penalty.

6. The following courses of action are available:

- Dismiss the case, take no action or issue a verbal warning outside the formal disciplinary procedure (see section 2, para 13)

- First written warning, second written warning or final written warning. A first written warning will be appropriate for minor offences, a second written warning will be given for more serious cases of misconduct or for persistent minor offences. Where the offence is serious but does not justify summary dismissal, a final written warning may be given. A final written warning may also be given when a second written warning is on record. Final written warnings should make clear

that further misconduct could lead to dismissal. It is important to note that warnings do not have to be sequential, if an instance of misconduct is sufficiently serious in itself to justify a higher level warning. In addition, these stages do not preclude the ability of a Panel of the Governing Body to recommend the dismissal of an employee if the severity of misconduct warrants it.

Second written and final written warnings may be accompanied by additional actions including those involving loss of pay.

- Dismissal. This may occur if the employee has failed to comply with a previous final written warning or if gross misconduct is found. In cases of gross misconduct, dismissal will be without notice.

7. The Designated Office/Panel will reconvene the hearing to:

- inform the employee of the decision and the penalty
- inform the employee of their right of appeal
- if appropriate, explain what improvement is expected and how this will be monitored.

8. If any new facts emerge as a result of the hearing, the Designated Officer/Panel must decide whether the information warrants further enquiries. If so, the hearing should be adjourned and reconvened when the information is available. Other adjournments may be necessary during the hearing, e.g. to restore a calm atmosphere, or for the Designated Officer/Panel and HR Advisor to consider/clarify certain points.

9. At the end of the hearing, after the adjournment, the Designated Officer/Panel Chair would normally reconvene the hearing to give the employee the decision on the same day. If this is not possible because of exceptional circumstances then the hearing should be reconvened within 2 working days.

10. If the Designated Officer/Panel, when considering what decision to make, requires clarification about any evidence, facts or other matters put forward at the hearing, it is essential that all parties are recalled to clarify the point.

OTHER ACTION ARISING FROM A DISCIPLINARY HEARING

As a result of the outcome of a disciplinary hearing and/or the evidence considered in the course of the hearing, there may be a need to make a referral and/or report the outcomes to a professional/statutory body or other authority. You should consult with your HR Adviser about this at the conclusion of the hearing.

11. Written confirmation of disciplinary action

The Designated Officer will confirm disciplinary warnings and other disciplinary action in writing within 5 working days of the disciplinary hearing.

The letter should include details of:

- The allegation(s) of misconduct considered and the decision as to whether the allegation was established/proved, in relation to each one
- A summary of the findings, evidence and facts which led to the decision in respect of each allegation found to be established/proved

- The disciplinary sanction applied as a result of the findings (e.g. first written warning, second written warning, final written warning, dismissal, including summary dismissal, and any other disciplinary sanction)
- Where warnings are given, standards and guidelines for improvement and the period after which the record of disciplinary action can be reviewed. This would not be earlier than 6 months, or later than 12 months.
- The period of time after which the record will be disregarded and expunged from the file, including reasons for retention of the record as appropriate
- Clear advice to the employee about the consequences of any future misconduct
- Any rights of appeal, to whom the appeal should be made, within what timescale

12. Post Disciplinary Action

It is appreciated that it will be a difficult time for both staff and managers who are part of the Disciplinary procedure. The Employee Assistance Programme is available to support individuals through this process. However, this does not include representation at disciplinary meetings or hearings.

More information on the EAP can be found on the intranet at <http://internet-1/staffsupport> or by calling 0800 282193.

Alternatively, please consult with your HR Adviser if you want to discuss other 'post disciplinary' initiatives such as assimilation of an employee back into the workplace and/or supporting staff who have given evidence during the course of the disciplinary process.

SECTION 4: DISCIPLINARY APPEALS PROCESS

1. Appeals can be made against first written, second written and final written warnings and dismissal, and other disciplinary sanctions which may have been applied. An appeal must be made in writing and addressed to the Clerk to the Governing Body within 5 working days of the decision of the disciplinary hearing. The letter requesting an appeal hearing must state clearly, and in full, the grounds on which the appeal is being requested, in relation to the findings and decisions confirmed in writing to the employee following the disciplinary hearing.

2. Employees have the right to be accompanied at any stage in the appeal process by a Trades Union representative or other representative of their choice. The Appeal Panel of the Governing Body hearing the appeal may be accompanied by a HR Officer who will act in an advisory capacity only. The appeal decision will rest with the Appeal Panel.

3. Grounds of Appeal

An appeal may be presented on the grounds that the employee contends one or more of the following:

(a) The procedure - e.g. the procedure was not followed and a procedural failure affected the decision

(b) The decision - e.g. the Designated Officer/Panel did not come to the right conclusion because the evidence did not support the finding

(c) The penalty - e.g. the penalty was too harsh taking into account the type of unsatisfactory conduct, the mitigating circumstances and/or the employee's previous service.

4. The Appeal

The appeal will be arranged by the Clerk to the Governing Body on behalf of the Designated Officer/Panel who conducted the disciplinary hearing. The employee will be notified, within 5 working days of receipt of the appeal request, of the date and arrangements for the appeal, which will be heard as soon as is reasonably practicable.

The Appeals panel shall consist of a least two but not more than four members of the Governing Body who were not involved in any of the previous stages of the disciplinary process.

The appeal hearing will not be a re-hearing of the whole disciplinary case. However, if the employee contends that the earlier disciplinary proceedings were fundamentally flawed, the Appeal Panel will have discretion to arrange for a re-hearing of the case at appeal stage. It will be for the employee and/or

their trades union representative to state clearly why they believe the proceedings were fundamentally flawed if this is alleged.

The response to the appeal should be presented by the Designated Officer/First Panel Chair who made the original decision.

The employee and management side must supply any relevant documents to be used in the process not less than 3 days before the appeal date. New documents will not normally be admissible unless new information has come to light which was not available at the original hearing. In exceptional circumstances, genuinely new evidence may become available which the Appeal Panel may accept at the hearing.

5. The Appeal Hearing

- The Chair of the Appeal Panel will introduce all parties and state the purpose of the hearing. They will then summarise the order of proceedings and answer any issues with regard to procedure. Notes must be taken of the appeal hearing.

- The employee or their representative may present their case based on the grounds of the appeal, calling any witnesses.
- The Designated Officer/First Panel Chair and the Appeal Panel and HR Advisor may ask questions of the employee and any witnesses, including any questions on the documents presented.
- The Designated Officer/First Panel Chair will then present the response, call any witnesses and use relevant documents.
- The employee or their representative and the appeal officer and HR Advisor may then ask questions of the Designated Officer and any witnesses.
- The Designated Officer/First Panel Chair will summarise his/her case.
- The employee and/or their representative will summarise their appeal case.
- The appeal hearing will then be adjourned for the Appeal Panel to consider their decision.
- The parties will be recalled and given the decision. The decision must state whether the employee's appeal has been upheld or not upheld, in full or in part. If the employee's appeal has been upheld in full or in part, the decision must also state whether the disciplinary sanction is upheld or overturned. If the original disciplinary sanction is overturned, the employee must be advised whether a different sanction is substituted (although this cannot be a more severe sanction than originally imposed). The Appeal

Panel retains the right to overturn the decision(s) of the original disciplinary hearing.

- The appeal decision, the reasons for it, will be confirmed to the employee in writing by the appeal officer within 5 working days of the hearing.
- The decision of the Appeal Panel of the Governing Body is final.

SECTION 5 DISCIPLINARY RULES

Disciplinary rules and procedures help to promote fairness and along with the Code of Conduct for employees, outline standards of conduct which are considered necessary for the satisfactory performance of your employment contract.

These corporate disciplinary rules should be read in conjunction with the School's disciplinary procedure (section 3). It is not intended that these rules provide an exhaustive or exclusive list, as there may be other acts of misconduct that result in disciplinary action.

Reference should be made to the disciplinary procedure and the Code of Conduct to find out the forms of disciplinary action that can be taken.

When satisfactory standards are not met, regard will be given to previous employment records, the nature of the offence and the circumstances of each particular case (reference will not be made to previous disciplinary actions which have been disregarded).

EXAMPLES OF MISCONDUCT

Although it is impossible to determine what disciplinary action to take without investigating an allegation first, action against misconduct could include verbal or any type of written warning. The majority of cases involving misconduct will not normally warrant dismissal without previous warning, unless these are persistent acts of misconduct following other warnings.

1. Unauthorised or casual absence from work, including repeated late attendance.
2. Failure to comply with the School's/Council's Code of Conduct for employees.
3. Persistent failure to comply with sickness absence reporting procedures.
4. Failure to comply with the provisions of the flexitime scheme (where applicable).
5. Failure to comply with the provisions of the Data Protection legislation.
6. Failure to comply with the School's/Council's Standing Orders or Financial Regulations.
7. Using threatening or abusive language/behaviour towards colleagues or members of the public.
8. Being unfit for work through the influence of alcohol or other drug misuse.
9. Failure to observe Council and/or School safety rules and regulations.
10. Failure to comply with a reasonable instruction, or provide information that is needed by a manager.
11. Wilful inefficiency or neglect of duties and responsibilities.
12. Failure to observe the School's/Council's Equal Opportunity policy and acts of discrimination against or harassment of employees, clients or members of the public on any grounds.
13. Improper disclosure of confidential information.
14. Failure to comply with general office rules e.g. smoking policy.
15. Unauthorised additional employment.

16. Inappropriate use of School time, property and telephones e.g. misuse of internal e-mail facilities and/or internet facilities for inappropriate personal use (contrary to the e-mail and internet code).

EXAMPLES OF GROSS MISCONDUCT

These are breaches of discipline considered to be a matter of gross misconduct which fundamentally breach the contract of employment. An allegation of gross misconduct may lead to suspension from work and summary dismissal.

1. Persistent and wilful refusal to carry out a reasonable management instruction.
2. Serious or deliberate failure to comply with:
 - the School's/Council's Code of Conduct for employees.
 - Financial regulations and standing orders
 - council or School Safety policies and Practices.
3. Physical violence or assault of, or towards, a student, member of staff, member of the public or governors.
4. Theft or attempted theft of cash or property belonging to the School/Council or an employee of the School/Council.
5. Cash shortage by reason of negligence in relation to money within your responsibility.
6. Serious or persistent acts of discrimination or harassment against employees, clients of members of the public on any grounds.
7. Conduct of a fraudulent nature, including falsification of time sheets, claim forms and persistent misuse of the flexitime scheme, time clocks and fraudulently recording arrival on behalf of other employees, or inappropriate application of the School's/Council's services.
8. Wilful and irresponsible actions or omissions which would endanger people or property.
9. Acts of professional negligence or grossly inadequate standards of work due to neglect or wilful failure to perform.
10. Conduct liable to cause serious loss of confidence in the School/Council or considered contrary to the interests of the School/Council, in addition to

those mentioned in the Code of Conduct, this includes criminal offences outside of work, which may affect the continued performance of your contract of employment.

11. Interference with, or misuse of, School/Council computer systems, hardware, software or data, in such a way as to threaten the continued operation, integrity or security of the School/Council's systems.

12. Unauthorised removal and use of School/Council property.

13. Sexual offences / misconduct at work.

14. Improper use of an official position for private gain, including seeking and accepting bribes.

15. Unauthorised use and/or disclosure of information relating to the School's/Council's business, its members, staff or clients (contrary to the Code of Conduct).

16. Serious failure to discharge obligations in accordance with statute or contract of employment.

17. Sleeping on duty unless expressly permitted.

18. Serious incapability through the result of the influence of alcohol or other drug misuse.

OTHER CODES

The School/Council has a Code of Conduct for employees of the Council. Although it may not directly relate to you, you should ensure that you are familiar with its contents. Failure to abide by the rules set down in the Code may lead to disciplinary action being taken against you. A serious transgression of the Code may lead to dismissal on the grounds of gross misconduct.

The School/Council has other Codes of Practice and rules of behaviour, which should be observed by employees. These will be notified to you at induction and in the course of

your employment with the Council. In addition, there are a number of professional codes and guidance, eg, from the General Social Care Council and the Department for Education and Skills. All staff who are subject to these codes and guidance should ensure that they are familiar with them. Failure to abide by these rules may result in disciplinary action being taken.