

Disciplinary Policy & Procedure for School Staff

(Part 1 – informal action, normally applied to cases of minor misconduct)

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1. About this procedure

1.1 We will deal with any disciplinary matter fairly by taking steps to establish the facts and giving employees the opportunity to respond before taking any formal action.

1.2 The purpose of this Disciplinary Procedure is to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary. The standards of conduct expected of all employees are set out in the Code of Conduct.

1.3 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases, reference should be made to the appropriate policy or procedure.

1.4 This procedure is consistent with the requirements of National and Local Conditions of Service and the Articles and Instruments of Government and the Acas Code on Disciplinary and Grievance Procedures.

1.5 This procedure does not form part of any contract of employment or other contract to provide services, and we may amend it at any time.

2. Who does this procedure apply to?

2.1 This procedure applies to employees only. It does not apply to agency workers, consultants, self-employed contractors, volunteers or interns.

2.2 This procedure should be adopted in its entirety and all schools within the Trust should follow the required set out.

3. Who is responsible for this procedure?

3.1 The Board has overall responsibility for the effective operation of this procedure. Suggestions for change should be reported to the Headteacher.

3.2 This policy is reviewed when the need arises by the Trust.

4. Minor conduct issues

4.1 Minor conduct issues can often be resolved informally between you and your line manager or another member of the senior leadership team. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of an informal discussion may be placed on your personnel file. The note will be ignored for the purposes of any future disciplinary hearings. In some cases, an informal verbal warning may be given. An informal warning will not form part of your disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

4.2 If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with the Headteacher as soon as possible.

5. Confidentiality

5.1 Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

5.2 You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure, whether these meetings or hearings are conducted in person, by telephone, or using remote working platforms or technologies. Recording equipment should only be used with prior mutual agreement. The use of recordings may be considered as part of making reasonable adjustments for relevant parties involved.

5.3 You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless we believe that a witness's identity should remain confidential.

6. Investigations

6.1 In all cases we will undertake a reasonable investigation. The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. By way of example, it may involve interviewing and taking statements from you and any witnesses, reviewing relevant documents and email correspondence, and/or reviewing any CCTV or other footage.

6.2 Except in cases where the Headteacher is the subject of possible disciplinary action, the Headteacher or appropriate member of Senior Leadership Team, who is not a party to the allegation, a witness or subject to any other conflict of interest, shall act as the Investigating Officer. In certain cases where, for example, the Headteacher is likely to be a key witness at the hearing(s), the Trust may commission another individual to act as the Investigating Officer. This could be someone external to the school, like a HR Consultant or another representative from within the Trust. The Investigating Officer will report their findings to the Headteacher who will decide on one of the 3 outcomes below. Where the Headteacher has investigated the case, they may still make the determination below.

6.3 Where the Headteacher is the subject of an allegation of misconduct the Trust Leader (or other nominated Trust representative) will be the Investigating Officer, supported by a member of the School's HR Advisory Service. The Investigating Officer will be required to collect statements in writing from any witness who may be called to support their statements orally at any subsequent disciplinary hearing. They will report their findings to the Trust Leader (or nominated other leader) who will decide one of the 3 outcomes below.

6.4 Investigation meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

6.5 You do not normally have the right to bring a companion to an investigation meeting. However, we may allow a companion to accompany you if it helps you to overcome any disability-related disadvantage or any difficulty in understanding English.

6.6 You must co-operate fully and promptly in any investigation. This will include, among other things, informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigation meetings if required. Investigation meetings may take place in person or remotely, using remote working platforms or technologies as appropriate.

6.7 In most cases there will be one of three outcomes from an investigation:

(a) Complete exoneration from the allegations made. In this case a letter should be sent to the employee informing them of this and to all employees involved thanking them for their co-operation throughout the investigation process.

(b) Where informal action has not already been applied and the nature of the allegation does not prevent this, an assessment that there is a potential case of misconduct and an informal or formal management intervention/direction and guidance, should be undertaken. (Usually there will first be application of the informal process and formal intervention will be utilised only if further action is necessary).

(c) A recommendation that there are sufficient grounds for a potential case for misconduct or gross misconduct and that a disciplinary hearing should be held.

6.8 The employee will be informed of the findings of the investigation and the decision on the outcome in writing.

6.9 Where 6.7(c) applies, the employee should be advised that a disciplinary hearing is going to be held, and that they will be notified of the date, time and venue of the disciplinary hearing in the near future. A copy of this Disciplinary Procedure must be provided to the employee. The letter will make clear whether the allegation is considered as potentially gross misconduct.

7. Criminal allegations

7.1 Where your conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.

7.2 We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.

7.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

8. Suspension

8.1 In some circumstances, we may need to suspend you from work the Headteacher or the Board (in cases involving Headteachers) has the power to suspend an employee. The suspension will be for no longer than is necessary to investigate any allegations of misconduct against you or so long as is otherwise reasonable while any disciplinary proceedings against you are outstanding. We will confirm the arrangements to you in writing. While suspended, you should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless you have been authorised to do so by the Headteacher.

8.2 The Board may decide that it is content for the Trust Leader to undertake this function on the Trust's behalf. Any suspension of the Headteacher will be conducted by the Trust Leader, supported and advised by a representative from the School's HR Advisory Service.

8.3 The Trust Leader must be informed immediately if suspension occurs and it is strongly recommended that advice is sought when considering the suspension of a staff member.

8.4 It is important to consider whether there are any suitable alternatives to suspension. It may still be possible for the employee to undertake duties other than their normal role. Suspension or alternative arrangements will be for as short a time as possible and will be kept under review.

8.5 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has been made about the allegations. You will continue to receive your full salary and benefits during the period of suspension.

9. Notification of a hearing

9.1 Following any investigation, if we consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing.

9.2 At least 5 working days prior to the date of the hearing all parties will supply all other parties with any and all documentation and paperwork that will be referred to and relied upon at the hearing. This means if there are documents that you wish to be considered at the disciplinary hearing, these must be provided to the disciplinary officer at least 5 working days prior to the date of any disciplinary hearing.

9.3 We will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if we decide after the hearing that the allegations are well-founded. We will also include the following where appropriate:

(a) a summary of relevant information gathered during the investigation;

(b) a copy of any relevant documents or other evidence which will be used at the disciplinary hearing; and

(c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.

9.4 We will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time, as set out in paragraph 11 below, to prepare your case based on the information we have given you. If there are reasons for conducting any hearing remotely (for example, by using remote working platforms or technologies), we will provide these reasons to you and notify you of the relevant arrangements and instructions for joining the hearing. If you have any questions regarding how to join the hearing remotely, you should let us know before the hearing date. We recognise that, in some cases, the use of remote working platforms or technologies may not be appropriate (for example, where an employee has a hearing condition or does not have access to relevant equipment or software). In these cases, the hearing will take place in person where possible.

9.5 For the purpose of this procedure “working days" shall mean Monday to Friday excluding holidays and begins with the day of receipt but does not include the day of the hearing.

10. The right to be accompanied

10.1 You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. You must tell the person chairing the hearing who your chosen companion is, in good time before the hearing.

10.2 A companion is allowed reasonable time off from duties without loss of pay, but no-one is obliged to act as a companion if they do not wish to do so.

10.3 If your companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days afterwards, we may ask you to choose someone else.

10.4 We may, at our discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) if this will help to overcome any disability-related disadvantage, or if you have difficulty understanding English.

11. Procedure at disciplinary hearings

11.1 If you or your companion cannot attend the hearing, you should inform us immediately and we will arrange an alternative time for the hearing to take place. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason or are persistently unable to do so (for example, for health reasons), we may

have to take a decision based on the available evidence including any written representations you have made. Should your colleague/Trade Union representative not be available, you may propose an alternative time which must be within 5 working days following the day of the proposed hearing.

11.2 For cases of misconduct;

(a) If the Headteacher has not been involved in the investigation of the case, they may hear the case alone or invite other Trust representatives to join them on a panel depending on the Board's decision on levels of delegation.

(b) Where the Headteacher has been involved in the investigation or has received a report and reviewed the findings, a disciplinary panel should be convened to hear the case. The Headteacher should not be a member of the panel but may present the case with, or instead of, the Investigating Officer.

11.3 For cases of gross misconduct;

(a) The Investigating Officer will report to the Headteacher (where the Headteacher is not already the Investigating Officer) who will determine whether a case of gross misconduct will be referred to a hearing.

(b) Although, within regulations, the Headteacher could still hear the case when joined by other Trust Representatives, it is very strongly recommended that a disciplinary panel of Trust Representatives is convened (unless it is agreed by all parties that the Headteacher hears the case). No one with prior knowledge of the case should hear the case.

(c) Where the allegation is against the Headteacher and an independent Investigating Officer has been commissioned, he/she will report to the Trust Leader to determine if a case will be taken to a hearing.

11.4 The formal Disciplinary Procedure starts when an employee is notified that they are required to attend a disciplinary hearing. Hearings at which disciplinary action is to be considered shall occur as soon as possible after the event or action which has caused concern and the employee has been given five school working days' notice in writing. Consideration may be given to organising hearings during the school holidays where the employee is not restricted to term time working.

11.5 At the disciplinary hearing, the Investigating/Presenting Officer will go through the allegations against you and the evidence that has been gathered. You will be able to respond, ask questions and present your case and any evidence of your own. Your companion may make representations to us and ask questions but should not answer questions on your behalf. You may confer privately with your companion at any time during the hearing.

11.6 Either party may ask relevant witnesses to appear at the hearing, you may call witnesses provided you give us sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. However, you will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, we decide that a fair hearing could not be held otherwise.

11.7 We may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

11.8 We will inform you in writing of our decision and our reasons for it, usually within 5 working days of the disciplinary hearing delivered by hand or special delivery and will include:

(a) The reasons for the decision

(b) The disciplinary sanctions and reasons for those sanctions

(c) A warning of the consequences if there is no satisfactory improvement, or further misconduct

(d) The expiry date of any warning

(e) The employee's right of appeal

(f) The termination date of the contract in cases of dismissal

(g) Explanation that any formal warnings will be recorded in the employee's personal file;

11.9 The employee's colleague/Trade Union or Professional Association representative should receive a copy for information, and a copy kept in the employee's personal file and a record of the outcome made on the school record of disciplinary action.

11.10 The Headteacher will maintain a Register of Disciplinary Action which will contain a copy of any written warning issued to employees. Where a sanction is issued to the Headteacher, the Trust Leader is responsible for ensuring that the matter is entered on the register appropriately and removed in line with the Disciplinary Committee's decision. During the absence of the Headteacher, the Deputy/Acting Headteacher is responsible for the maintenance of the register.

12. Disciplinary penalties

12.1 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. We aim to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

12.2 You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or you have not yet completed your probationary period.

12.3 When the Headteacher/Disciplinary Committee considers that there is insufficient robust evidence to support the allegation(s) the individual will be exonerated.

12.4 Stage 1: first written warning. A first written warning may be authorised by the Headteacher/Disciplinary Committee. It will usually be appropriate for a first act of

misconduct where there are no other active written warnings on your disciplinary record.

12.5 Stage 2: final written warning. A final written warning may be authorised by the Headteacher/Disciplinary Committee. It will usually be appropriate for:

(a) misconduct where there is already an active written warning on your record; or

(b) misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.

12.6 Stage 3: dismissal. Dismissal may be authorised by the Headteacher/Disciplinary Committee. It will usually only be appropriate for:

(a) any misconduct during your probationary period;

(b) further misconduct where there is an active final written warning on your record; or

(c) any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out in our Code of Conduct.

12.7 Alternatives to dismissal. In some cases, we may at our discretion consider alternatives to dismissal. These may be authorised by the Headteacher/Disciplinary Committee and will usually be accompanied by a final written warning. Examples include:

(a) Removal of incremental progression.

(b) Demotion to a lower graded post.

(c) Transfer to another department or job.

(d) A period of suspension without pay.

(e) Loss of seniority.

(f) Reduction in pay.

(g) Loss of future pay increment or bonus.

(h) Loss of overtime.

12.8 The Trust will determine in its delegation of disciplinary matters whether the Headteacher is empowered to make initial dismissal decisions. Where this is not the case, for allegations of serious misconduct or in other appropriate circumstances, the matter will be referred for consideration to a Disciplinary Committee of the Trust. The Committee will comprise of three Trust representatives and will decide whether or not to issue a warning, which may be written or a final written warning or, in very serious cases, a request to the Trust Leader to issue notice of dismissal.

13. The effect of a warning

13.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.

13.2 A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. Your conduct may be reviewed at the end of a warning's active period and, if it has not improved sufficiently, we may decide to extend the active period.

13.3 After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings except in exceptional circumstances, e.g. where they demonstrate patterns of behaviour which give rise for concern. In line with the DfE guidance on 'safer recruitment' details of disciplinary warnings, spent or live, will be included in references where the misconduct affected adversely the safety and wellbeing of children. While live formal disciplinary sanctions for other categories of misconduct should be included on references, details of informal/formal management intervention do not need to be given.

13.4 If a Headteacher/Trust Representative considers that a disciplinary warning should not be automatically expunged, this should be made clear when the warning is issued.

13.5 Any arrangements for a review of the warning should be made clear. The employee should have the right to make representations for its expunction and to appeal any decision not to expunge a warning.

13.6 Substantiated allegations of harm to the safety and wellbeing of children must be kept in a confidential personnel file and a copy provided to the individual. The record should be retained until the individual has retired or for a period 10 years from the date of the allegation, if that is longer. The record will comprise a comprehensive summary of the allegation, details of how the allegation was followed up and resolved, including a note of any action taken and decisions reached. The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information about an allegation that did not result in criminal conviction and will help to prevent unnecessary re-investigation, if an allegation resurfaces.

14. Appeals

14.1 If you want to appeal a disciplinary decision taken against you, state your full grounds of appeal in writing within 10 working days of the date on which you were informed of the disciplinary decision.

14.2 The matter will be referred to the Disciplinary Committee where the Headteacher has issued the initial sanction, and to the Trust Leader where the Trust Disciplinary Committee has made the decision that is now the subject of the appeal.

14.3 If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful, you will be reinstated with no loss of continuity or pay.

14.4 If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light, we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements at least 5 working days prior to the appeal hearing. You will have a reasonable opportunity to consider this information before the hearing, and you or your companion may comment on any new evidence arising during the appeal before any decision is taken.

14.5 We will give you written notice of the date, time and place of the appeal hearing which will be held within 15 working days (or by mutual agreement as soon as practicable beforehand or thereafter) of the receipt of the formal notice of appeal. The employee will be informed of the place, date, time and purpose of the meeting with a minimum of 10 working days' notice (or by mutual agreement as soon as practicable beforehand or thereafter). As detailed in paragraph 9.4, there may be circumstances in which it is appropriate for a hearing to be conducted remotely.

14.6 The appeal hearing may be a complete re-hearing of the matter, 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 our discretion depending on the circumstances of your case. In any event, the appeal will be dealt with as impartially as possible.

14.7 The appeal hearing will be conducted by an Appeals Board which will be comprised of three members of the Central Executive Team and/or Directors of the trust board, who have not been previously involved in the case. You have the right to bring a colleague or trade union representative to the meeting (see paragraph 10).

14.8 We may adjourn the appeal hearing if we need to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

14.9 Following the appeal hearing we may:

(a) confirm the original decision;

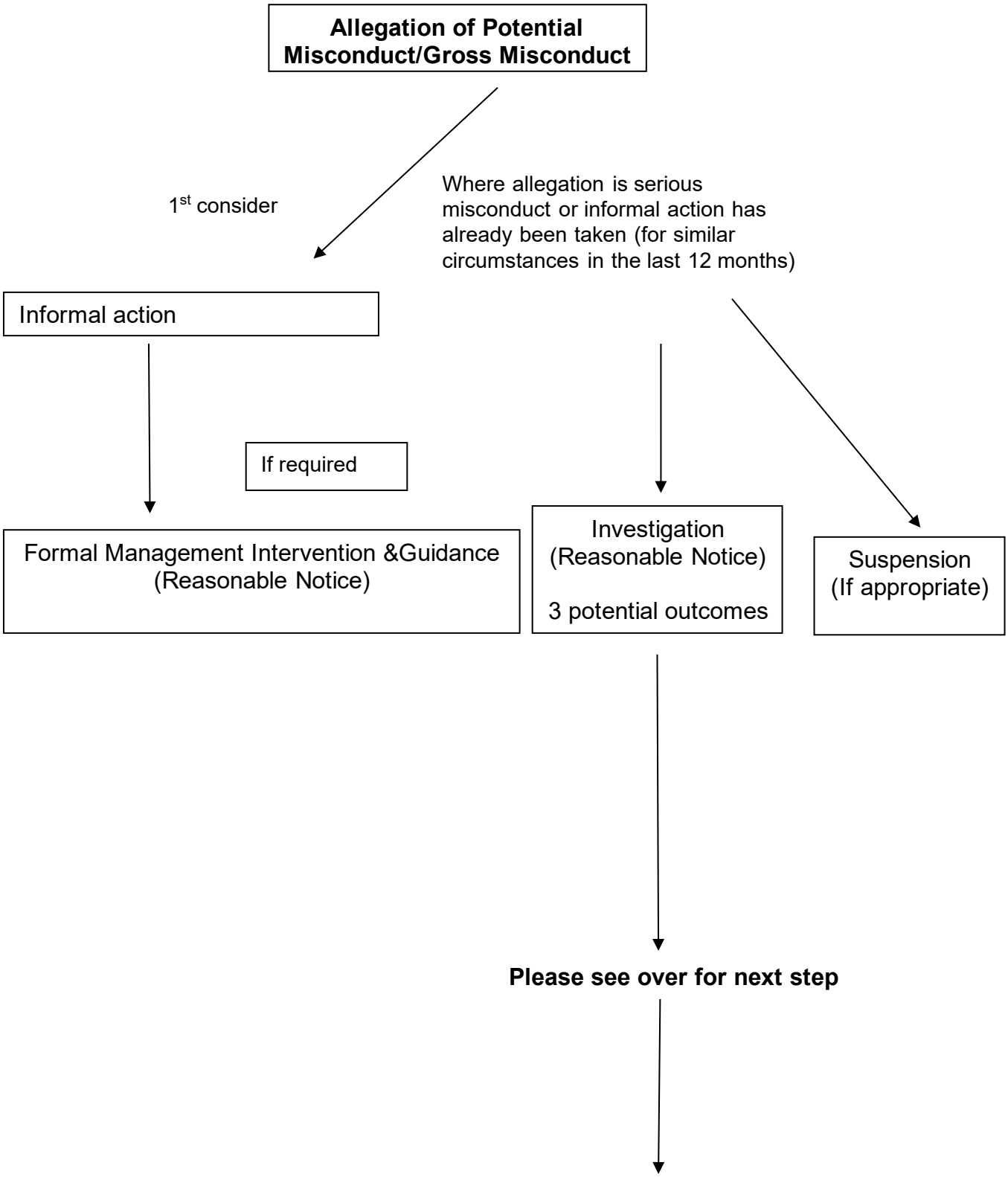
(b) revoke the original decision; or

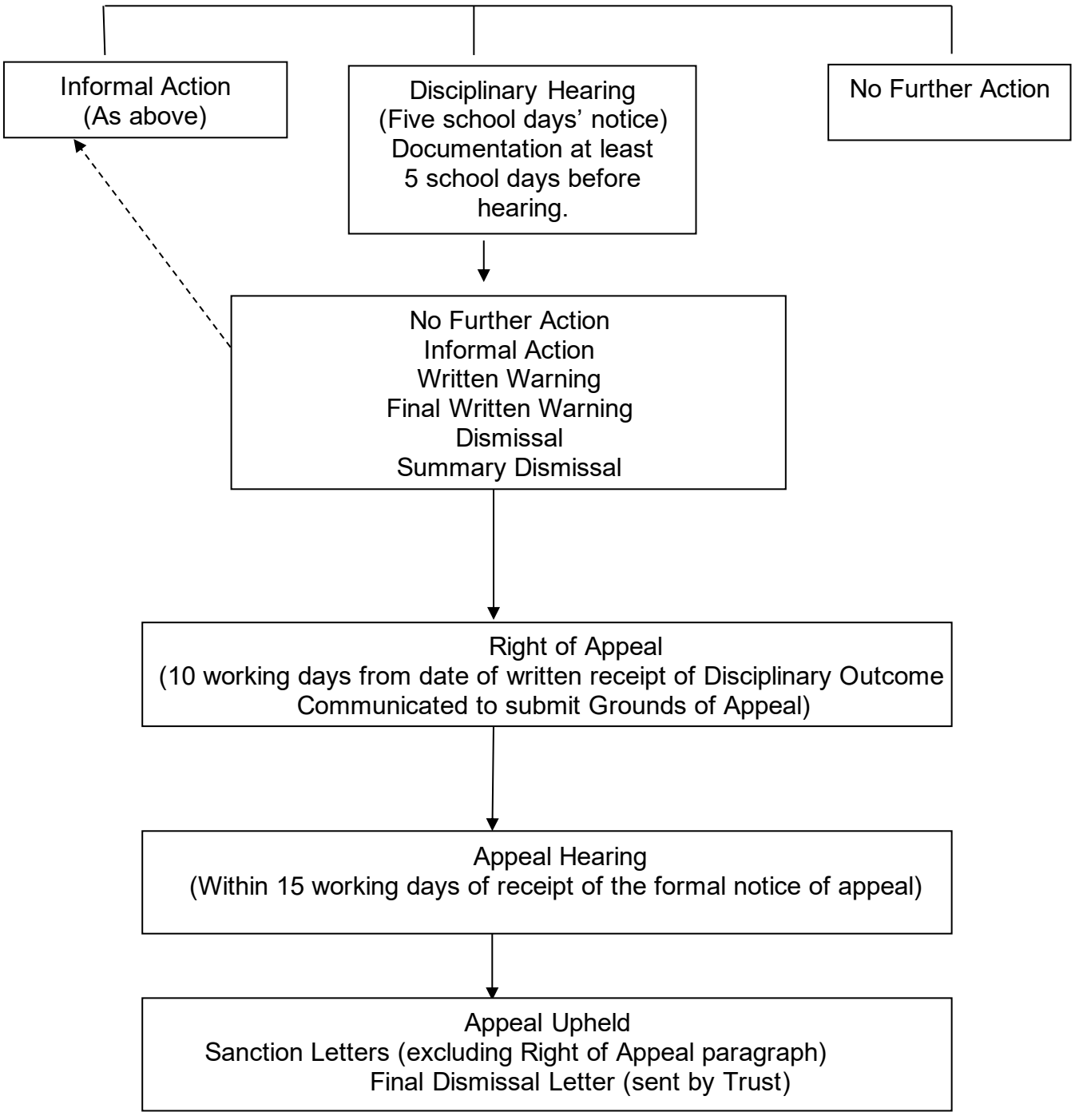
(c) substitute a different penalty.

14.10 We will inform you in writing of our final decision as soon as possible, usually within one calendar week of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal.

Appendix 2c

DISCIPLINARY POLICY AND PROCEDURE TIMELINES/SAMPLE LETTERS




Informal Action
(As above)
Disciplinary Hearing
(Five school days' notice)
Documentation at least
5 school days before
hearing.
No Further Action
No Further Action
Informal Action
Written Warning
Final Written Warning
Dismissal
Summary Dismissal
Right of Appeal
(10 working days from date of written receipt of Disciplinary Outcome
Communicated to submit Grounds of Appeal)
Appeal Hearing
(Within 15 working days of receipt of the formal notice of appeal)
Appeal Upheld
Sanction Letters (excluding Right of Appeal paragraph)
Final Dismissal Letter (sent by Trust)