

Disciplinary Policy - Applicable to Headteachers



This policy is not intended for use by non-maintained schools. If extracts are used they should be attributed.



Foundation and Voluntary Aided Schools can adapt and adopt this policy or use an alternative.



This policy is for use by Community and Voluntary Controlled schools. Governing Bodies are asked to adopt this policy. Should a Governing Body wish to adopt an alternative policy please ensure that a copy is supplied providing assurance that it is legally compliant.

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Disciplinary Policy – Headteachers

1.0 Policy Statement

- 1.1 The morale of the School depends to a large extent on the ability to achieve and preserve high standards of co-operation and discipline. Most employees understand and accept that in any organisation there have to be rules on conduct if activities are to run smoothly and constructively for the safety and wellbeing of everyone.
- 1.2 The definition of a Disciplinary Process is: “a way of dealing with job-related behaviour and/or attitude that does not meet expected and communicated performance standards”. Disciplinary procedures are applied primarily to help and encourage employees to improve rather than just as a way of imposing a punishment.
- 1.3 The purpose of this policy is to set acceptable standards of conduct and will address all disciplinary matters appropriately. The level of the sanction will depend on the seriousness of the misconduct and take into consideration any mitigating or aggravating circumstances. The standards of conduct outlined in Appendix 1, is a list of examples of Misconduct and Gross Misconduct that would normally justify sanctions under the Disciplinary Policy and are intended to help employees understand acceptable standards of conduct required by the School.
- 1.4 The Disciplinary Policy will provide a fair, reasonable and consistent method of dealing with possible breaches of discipline that need to be brought to the employee’s attention. Where such steps prove unsuccessful, the employee may have their employment terminated on the grounds of misconduct.
- 1.5 This Policy has been developed in line with the ACAS code on Disciplinary Procedures.

2.0 Scope

This policy applies to all Headteachers/Interim Headteachers employed at a Community or Voluntary Controlled School

The procedure does not apply:

- Where a headteacher has been barred from teaching under statutory provision, the Director of Children’s Services will advise on the procedure to terminate employment in these cases
- On the termination of a contract of employment for which the Headteacher has been specifically engaged
- In the event of redundancy. The redundancy procedure is followed in these cases
- In the event of incapability because of poor performance or ill-health. The relevant capability procedure is followed in these cases
- To Headteachers who are agency/self employed

A similar policy applies to employees of Milton Keynes Council.

Where there is an allegation of abuse (including inappropriate physical contact) by the Headteacher against a child or young person, reference should be made to the additional notes in Appendix 2 and the Managing Allegations Against Staff in Education Policy. Advice should also be sought from the Council's Lead Officer for Safeguarding Children.

Advice on the application of this procedure is available from the Director of Children's Services, or their representative, and from the School's HR provider. Chairs of Governors who plan to initiate disciplinary action should consult these officers before proceeding.

3.0 Introduction/Purpose

3.1 This policy is designed to:

- Inform Headteachers of the standard of conduct that is unacceptable
- Establish responsibilities of Governing Bodies or Interim Executive Board (IEB), HR and Investigating Officers during the disciplinary process
- Establish the rights and responsibilities of Headteachers
- Provide for possible disciplinary breaches to be dealt with as soon as possible using a fair, reasonable and consistent method that agrees with the principles of natural justice and the test of the balance of probabilities

3.2 The policy does not replace the normal interaction between the Governing Body and the Headteacher and recognises that minor breaches of conduct should be dealt with promptly and informally without referring to formal disciplinary procedures

3.3 Action under this policy relates both to conduct at work and instances where conduct outside work has a direct relationship to the Headteacher's duties. This includes action or conduct that is likely to bring the school into disrepute or raises concerns about a Headteacher's suitability to continue to work in a position of trust.

3.4 In certain circumstances, this document should be read in conjunction with other Schools policies such as those dealing with managing underperformance, harassment and bullying, managing attendance and other national guidelines for Headteachers.

4.0 Roles and Responsibilities

4.1 **Chair of Governors (for the purposes of implementing the disciplinary procedures, the "Chair of Governors" means, in the absence or involvement of the Chair of Governors, a representative who is either the Vice Chair of Governors or another Governor who has been nominated by the Chair of Governors) i.e. Chair of Personnel Committee**

- Own and take responsibility for the disciplinary process and ensure that it proceeds within the timescales of the Disciplinary Policy
- Inform the Director of Children's Services/HR representative when he/she is considering invoking this policy at any stage
- Examine the standards applied in similar situations to make sure the Headteacher is not being unfairly singled out and to ensure consistency

- Make full notes of any discussions (informal or formal) relating to the disciplinary matter
- Maintain confidentiality
- In conjunction with the HR representative, make the decision on whether or not suspension is appropriate
- In conjunction with the Director of Children's Services or their representative, appoint an Investigating Officer and, if internal, arrange for them to have suitable release time from their day to day duties to facilitate a timely completion of the investigation
- Will appoint a Clerk to keep a record of any hearing or appeal hearing relating to a disciplinary matter.
- Following an investigation, determine whether there is a case to answer and convene a disciplinary hearing in accordance with this policy
- Refer any cases of alleged child protection to Children's Services and the Police
- The chair of governors must not be a member of the Hearings Committee or the Appeal committee.

4.2 **Governing Body or IEB (Comprehensive List of responsibilities is available from HR)**

- Ensure that appropriate disciplinary rules and procedures are in place within the School and are followed in a fair and reasonable manner
- Appoint a Hearings Committee comprising of at least three governors who will be responsible for conducting a disciplinary hearing. The Governing Body or IEB will make their decision based on the options given below. These options must be formally minuted and reviewed annually:
 - a) To appoint a separate Hearings Committee consisting of three governors (in exceptional circumstances this may be reduced to two)
 - b) To collaborate with another School's Governing Body or IEB
- Appoint an Appeal Committee (comprising three governors who have not previously been involved) to hear any appeals. A governor who has served on a Hearings Committee or been involved in the case previously must not serve on the Appeal Committee
- The Chair of Governors must not be a member of either committee

4.3 **Human Resources (Comprehensive List of responsibilities available from HR)**

- Maintain close contact with the Chair of Governors and the Investigating Officer throughout the Disciplinary process
- Provide advice and guidance on meetings/hearings, investigation report, appeals and standard documentation
- Advise on the disciplinary procedure to ensure compliance with the law, fairness and consistency
- Attend disciplinary hearings and appeal hearings in an advisory capacity to the Committee, and advise on an appropriate disciplinary sanction in specific cases
- Ensure that records of investigations and hearings are placed on the appropriate file
- Maintain confidentiality

4.4 **Headteacher**

- Take full responsibility for their conduct and maintain a standard of conduct acceptable to the school
- Co-operate in any investigation being carried out into their own or others' alleged misconduct

- Attend and take part in any disciplinary hearing and be prepared to put forward their version of events and/or explain their conduct fully, honestly and truthfully
- Maintain confidentiality
- Take required action to correct behaviour/conduct

4.5 **Investigating Officer (Comprehensive List of responsibilities is available from HR)**

- Liaise with the Chair of Governors and HR to gain a full understanding of the nature and scope of an investigation
- Provide a complete investigation report, within a recommended timeline and to an acceptable standard
- Be impartial and not have a conflict of interest that might prejudice a fair investigation
- Make a recommendation to the Chair of Governors or Governing Body/IEB and HR as to whether the matter should be dropped
- Attend disciplinary hearings and present the investigation report
- Maintain confidentiality

5.0 **Principles**

- 5.1 The provisions of the Equality Act 2010 will be applied throughout the implementation of this Policy. Guidance on this can be found at [Equality Act - Guidance for Schools](#)
- 5.2 The stages of the disciplinary procedure will be conducted without unnecessary delay. At all stages, the Headteacher will be advised of the nature of the complaint against him/her and that the formal procedure has been instigated and is being followed
- 5.3 No formal disciplinary action will be taken against a Headteacher until the allegation has been fully investigated. If it is deemed appropriate, the Headteacher may be suspended whilst the investigation is being carried out
- 5.4 No formal disciplinary sanction will be imposed without a disciplinary hearing and any sanction will be confirmed in writing to the employee
- 5.5 No Headteacher will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty could be dismissal without notice or pay in lieu of notice
- 5.6 A Headteacher will be given the opportunity to state his/her case at a formal hearing and will have the right to be accompanied at the hearing by a Trade Union/Professional Association representative or work colleague of his/her choosing providing this person does not have a conflict of interest or their presence would prejudice the hearing
- 5.7 The disciplinary measures described in this Policy are not necessarily sequential and may be implemented at any level if a Headteacher's alleged misconduct warrants such action
- 5.8 A decision on disciplinary action will be made in the light of what is believed, on the balance of probabilities, to have occurred and in reaching a decision about appropriate sanctions; the Committee will take account of any mitigating or aggravating circumstances. The nature of any disciplinary action taken will be proportionate to the seriousness of the case and its surrounding circumstances and will reflect a conclusion that any reasonable employer could have been expected to reach
- 5.9 A Headteacher will be given a written explanation for any action to be taken as a result of a disciplinary hearing

- 5.10 A Headteacher will have the right to appeal against any formal disciplinary sanction imposed under this Disciplinary Policy
- 5.11 Where the suspension of a local Trade Union/Professional Association representative is being considered, before such action is taken, the circumstances must be reported to your HR provider, and, after obtaining the employee's agreement, they will inform the senior Trade Union/Professional Association officer.

If the suspension involves a local officer of the Trade Union/Professional Association then, again, the circumstances must be reported to your HR provider and, after obtaining the employee's agreement, they will ensure that the Trade Union/Professional Association Regional Officer is notified. Where this is not possible, suspension will only be permitted where the situation requires an immediate response such as in cases of gross misconduct or where a risk to health and safety exists.
- 5.12 All employees working for or on behalf of the school have a duty to report any child or adult protection/welfare concerns. Failing to report a safeguarding matter (that could concern a child or adult) could result in an employee having disciplinary action taken against them
- 5.13 Staff governors will have no involvement in any formal disciplinary proceedings against another member of staff within the school
- 5.14 It is essential that all informal and formal stages of the disciplinary process are carefully documented.

6.0 Cases of Alleged Financial Irregularity

- 6.1 Financial regulations requires the Chair of Governors to notify the Director of Children's Services from Milton Keynes Council, who, in turn, will notify the Assistant Director - Audit and Risk Management, Milton Keynes Council or his/her representative, of any actual or suspected financial irregularity at the earliest opportunity. It is then the responsibility of the Assistant Director - Audit and Risk Management to decide if the matter warrants further action by the Audit Section and whether the matter should be referred to the police for further investigation. The Director of Children's Services will be informed if such action is taken.
- 6.2 Please refer to Milton Keynes Council's Anti Fraud Strategy for details of the Council's zero tolerance towards fraud

7.0 Cases of Alleged Criminal Activity

- 7.1 If the case involves suspected criminal offences that may lead to police proceedings, there is no obligation to await the outcome of any criminal case before taking disciplinary action providing the allegations have been properly investigated and the Investigating Officer believes on the balance of probabilities that the employee committed the misconduct. In these cases it may be appropriate to seek advice from the Police before undertaking an internal disciplinary process. In child protection cases, an internal investigation cannot commence until the police matter has been closed.
- 7.2 For suspected criminal offences other than financial irregularity, the Chair of Governors will notify the Director of Children and Families within Milton Keynes Council and the School's HR provider for advice on appropriate action.

7.3 A criminal offence outside employment will not be treated as an automatic reason for disciplinary action. The main considerations should be whether the offence is one that makes the Headteacher unsuitable for his/her work or to remain in the School's employment or where the actions of the Headteacher could bring the School into disrepute and if a Headteacher fails to declare a criminal offence outside employment, this could be viewed as a breach of honesty and trustworthiness.

7.4 Where it is felt necessary to investigate the allegations, this must be carried out in line with the Disciplinary Policy and consideration will be given as to whether or not the Headteacher can remain in post or whether suspension is appropriate.

8.0 Misconduct Falling under Part 1 and Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 - Referrals to the Independent Safeguarding Authority

8.1 Under the Safeguarding Vulnerable Groups Act 2006, the School has a legal duty to refer information to the Independent Safeguarding Authority (ISA) where they have removed an individual from working or volunteering or have concerns in respect of contact with children or vulnerable adults. If appropriate, the ISA will refer to the correct regulatory body e.g. General Teaching Council.

8.2 Any breach of the [Corporate Safeguarding Policy Statement](#) will be managed using this Disciplinary Policy.

9.0 Raising a Grievance or a Bullying and Harassment Complaint Related to an Ongoing Disciplinary Process

9.1 A grievance or a bullying and harassment complaint which is raised regarding an ongoing disciplinary process will not necessarily postpone the disciplinary process.

9.2 The claim may be dealt with in the course of the disciplinary process, by the Head teacher raising the matter either in the disciplinary hearing or during a disciplinary appeal, unless there are indications that the Chair of Governors/Local Authority Representative has acted in a vexatious or discriminatory manner.

9.3 In these circumstances advice should be sought from the HR provider as to whether the disciplinary process should be suspended or not.

10.0 Grievances or Bullying and Harassment Complaint Relating to the Lead-Up to a Disciplinary Process

10.1 A grievance or a bullying and harassment complaint which is raised regarding the circumstances that led to the disciplinary process being initiated, rather than the disciplinary process itself, will only postpone the disciplinary process if the allegations are so serious and credible that it would be unreasonable to proceed with the disciplinary process.

11.0 Informal Process

11.1 In the course of day to day activities, there may be occasions when the Chair of Governors will need to advise Headteachers informally of minor breaches of discipline.

11.2 Most cases of minor misconduct are best dealt with through informal processes rather than through the formal disciplinary procedure. Any problem should be discussed by the Chair of Governors and the Headteacher at the earliest possible opportunity with the objective of encouraging and helping the Headteacher to improve and stopping the

matter from escalating.

- 11.3 Having taken advice from HR, the Chair of Governors is responsible for determining whether action should be taken under this procedure

12.0 Establishing the Circumstances

- 12.1 When an allegation is made regarding a Headteacher's conduct, the Chair of Governors, following advice from an HR representative, will establish the circumstances that led to the allegation, by arranging a meeting with the Headteacher as soon as possible.

- 12.2 The Chair of Governors is required to keep notes of the date and content of the informal discussion.

- 12.3 In the event that a Headteacher related complaint is made directly to the Governing Body or IEB, it will immediately be past to the Chair of Governors.

- 12.2 Having established the circumstances, a view will be taken to determine whether:

- To suspend the Headteacher pending investigation
- To commission an investigation into the issue
- To deal with the matter informally
- To take no further action

13.0 Formal Process

The formal process may be invoked if the misconduct issues cannot be resolved informally

14.0 Suspension

- 14.1 Where any alleged misconduct is potentially so serious that it is unacceptable for the Headteacher to remain at work during the investigation or if their presence at work would prevent a fair investigation being carried out, the Headteacher may be suspended pending the holding of a formal disciplinary hearing

- To prevent further acts of misconduct
- To allow an investigation to take place
- To safeguard/protect the employee from other allegations

In cases of potential gross misconduct, suspension would always be carried out.

- 14.2 Suspension will be on full pay, is precautionary and is not disciplinary action or a punishment.

- 14.3 The Governing Body or IEB has authority to suspend the Headteacher. In practice, this should be undertaken by the Chair of Governors, using his/her power to act in an emergency. This will avoid the possibility of undermining the impartiality of governors who may be required to consider the matter at a later stage.

- 14.4 The Governing Body has the authority to lift a suspension. A suspension will be deemed to have been lifted by the Governing Body if a Hearing or Appeal Hearing has taken

place and the Headteacher has not been dismissed. The date of the Headteacher's return to work will be negotiated with the Chair of Governors.

- 14.4 Notes will be made of the date and time of the suspension, the reason for the suspension and any comments made by the Headteacher.
- 14.5 The Headteacher has the right to be accompanied at the suspension meeting by a work colleague or a Trade Union or Professional Association Representative. However, the unavailability of a representative cannot delay the meeting if the seriousness of the allegations means that the meeting is required to take place without delay.
- 14.6 The Headteacher will be informed verbally of the reasons for suspension at the time this occurs. The suspension will be confirmed in writing within 5 working days and a copy of the Disciplinary Policy will be provided.
- 14.7 The School has a legal duty to refer a Headteacher to the Independent Safeguarding Authority if the suspension is related to misconduct falling under Part 1 of Schedule 4 to the Safeguarding Vulnerable Acts Group 2006 and Part 2 of Schedule 4 to the Safeguarding Vulnerable Acts Group 2006.

15.0 Strategy Meeting

Details of the format and conduct of a Strategy Meeting can be found within the **"Managing Allegations Against Staff in Education Policy"**

16.0 Investigation

- 16.1 Where an allegation warrants action under this Policy, an investigation will be initiated immediately. In conjunction with the Director of Children and Families or their representative, it will be the responsibility of the Chair of Governors to appoint an Investigating Officer who may be from within Milton Keynes Council, may include a representative of the Milton Keynes Council Internal Audit team or an independent investigator may be appointed. Further advice should be sought from HR.
- 16.2 On appointing the Investigating Officer, the Chair of Governors will ensure that they have suitable release time from their day to day duties to carry out the investigation. This will facilitate a foundation for a thorough and prompt investigation. The appointment of the Investigating Officer and the terms of the investigation will be confirmed to the Investigating Officer in writing (email will suffice) within 5 working days of the appointment.
- 16.3 Investigations involving cases of suspected fraud or financial irregularity will be conducted by a designated Internal Audit investigator or include input from a member of the Internal Audit Team due to specialist knowledge required.
- 16.4 If the issues to be investigated relate to a local Trade Union/Professional Association representative, before any action is taken, your HR provider, must be informed and after obtaining the employee's agreement, they will inform the senior Trade Union/Professional Association Officer.

If the investigation involves a local officer of the Trade Union/Professional Association, then again the circumstances must be reported to your HR provider and, after obtaining the employee's agreement, will ensure that the Trade Union/Professional Association Regional Officer is notified. Where this is not possible, the investigation will only be

permitted where the situation requires an immediate response, for example, potential gross misconduct or where a risk to health and safety exists.

- 16.5 The purpose of the investigation is to establish whether there is a potential disciplinary case to answer. The investigation will aim to:
- Establish the exact nature of the complaint(s) or allegation(s) and any information that substantiates or refutes it/them
 - Give full details of the nature of the allegation(s) or complaint(s)
 - Offer the Headteacher the opportunity to give his/her explanation and to provide information that is relevant to the investigation
- 16.6 The investigatory interview(s) of the Headteacher whose actions are being investigated may take place in the presence of a work colleague or a Trade Union/Professional Association representative. The investigation may take place over more than one investigatory interview session.
- 16.7 Employees who witness an incident or who have information relevant to an investigation may be required to attend an investigatory interview and/or a disciplinary hearing. They can be accompanied at the investigatory interview or hearing by a work colleague or a Trade Union/Professional Association representative.
- 16.8 At the conclusion of the investigation, the Investigating Officer, having taken advice from HR, will produce a written report. On completion, the report will be passed to the Chair of Governors who will make a decision on whether or not the facts and circumstances indicate that there is a need for a disciplinary hearing.
- 16.9 Where it is decided that there is a disciplinary case to answer, the Chair of Governors will convene a formal disciplinary hearing.
- 16.10 Where the case is one that has child protection implications, the matter should be referred by the Chair of Governors to Children's Services/Police for investigation. Where Children's Services/Police are not conducting an investigation and a child is alleged to be a victim of an offence or witness to an alleged offence, permission must be obtained from the parents or guardian for the child to be interviewed. The parents or guardian may also attend the interview. See Appendix 2

17.0 Hearing a Disciplinary Case or Appeal

- 17.1 A disciplinary or appeal hearing will be heard by a Hearings Committee comprising of one of the following:
- One member of IEB
 - Hearings Committee of three appropriate Governors (two in exceptional circumstances)

18.0 Preparation for Disciplinary Hearing

- 18.1 Where the recommendation is, that a hearing is necessary which may result in dismissal, the Chair of Governors will notify the Hearings Committee of the Governing Body or IEB to advise that a hearing will take place.
- 18.2 The Headteacher will have the right to be accompanied at the hearing by a Trade Union/Professional Association representative or work colleague of his/her choosing providing this person does not have a conflict of interest or their presence would prejudice the hearing

- 18.3 The Chair of Governors or the appointed Clerk to the hearing will give the Headteacher at least ten working days written notice of the date of the hearing. Where possible, the letter will be handed to the Headteacher in person. A checklist on timescales is available from HR.
- 18.4 The appointed Clerk to the hearing will arrange for the Headteacher to receive the investigation report, relevant documentation to support the case and a list of any witnesses to be called in support of the management case, ten working days before the hearing. A checklist on timescales is available from HR.
- 18.5 The Headteacher will arrange for the appointed Clerk to the Hearing to receive any documentation to support the case, together with the names of any witnesses they intend to call, five working days before the hearing. Checklist on timescales is available from HR.
- 18.6 The Clerk will arrange for the Chair of governors to receive any documentation received from the employee at least 3 days before the hearing.
- 18.6 All documentation will be stored securely and all individuals involved in this exchange must be bound by confidentiality.

19.0 Conduct of the Disciplinary Hearing

- 19.1 The purpose of the disciplinary hearing is to establish the facts as far as possible and to reach a decision based on the balance of probabilities.
- 19.2 The Chair of the Hearings Committee will be advised by an HR representative
- 19.3 A clerk will attend specifically to take notes.
- 19.4 The Chair of Governors will lead the presentation of the Management case and the Investigating Officer will present the investigation report and call any witnesses, if required. The Headteacher will be given the opportunity to respond and to call witnesses.
- 19.4 The Chair of Governors/Investigating Officer will take questions from the Hearings Committee or the Headteacher/representative.
- 19.5 The Headteacher will be given the opportunity to present documentation and call witnesses at the hearing and will take questions from the Hearings Committee, Investigating Officer or Chair of Governors.
- 19.6 Witnesses may be called to give direct evidence to a disciplinary hearing on issues of factual dispute or where that person's statement is considered to be crucial to the matter being considered. The final decision as to whether or not it is appropriate for a witness to be called before a disciplinary hearing to give evidence in person lies with the Chair of the hearing.
- 19.7 The Hearings Committee will consider the evidence from both sides, take advice from HR, and make a decision on whether the allegations are upheld on the balance of probabilities and, if so, what level of disciplinary sanction is appropriate.

20.0 Disciplinary Sanctions

20.1 No disciplinary sanction will be given until the disciplinary procedure, i.e. full investigation and disciplinary hearing has been complied with.

20.2 The following sanctions may be applied:

- **First Formal Written Warning - Duration 12 months**

- A first formal written warning may be issued where the Headteacher does not have a live disciplinary sanction and a minor offence of misconduct has occurred. This will remain live for 12 months. After this period, the warning will, subject to satisfactory conduct, be regarded as spent for future disciplinary purposes.

- **Final Written Warning - Duration 24 months**

- A final written warning may be issued where:

- The Headteacher has a live written warning and there is further misconduct, or
- The misconduct is so serious that it cannot be tolerated a second time, or
- Dismissal would have been the proper sanction but for the mitigation which was taken into account.

This will remain live for 24 months. After this period the warning will, subject to satisfactory conduct, be regarded as spent for future disciplinary purposes

- **Dismissal**

The sanction of dismissal will be applied where:

- The Headteacher has failed to comply with a final written warning/they already have a final written warning and further misconduct has occurred. Under these circumstances, the Headteacher must be given notice or payment in lieu of notice.
- The Headteacher commits gross misconduct and they are dismissed without notice or pay in lieu of notice.

20.3 The School has a legal duty to refer a Headteacher to the Independent Safeguarding Authority if their dismissal is related to misconduct falling under Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 and Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.

21.0 Duration of Warnings

21.1 Warnings will be disregarded for future disciplinary action only after the periods of time specified above. However, a warning should still remain on record and retained on the personal file, to be referred to when necessary. Where a pattern emerges in lapses of conduct soon after the expiry of warnings and there is evidence of abuse of the policy, the Headteacher's disciplinary record should be borne in mind when deciding how long any subsequent warning should remain live.

21.2 Exceptionally, there may be circumstances where the misconduct is so serious, verging on gross misconduct, that it cannot be disregarded for future disciplinary purposes. In such cases, the final written warning may never be removed and any recurrence will lead to dismissal.

22.0 Other Sanctions

22.1 Other sanctions may also be used in conjunction with formal warnings. However, in all cases advice must be taken from HR. The following may be considered:

- Transfer to another post
- Demotion with or without protection of salary
- Other management action i.e. training

22.2 When deciding on a sanction, the record of the Headteacher and any mitigating circumstances will be taken into account. This is a separate process from the Hearings Committee's decision about whether or not the allegation is upheld, so information about the Headteacher's record must not be made available to the Hearings Committee until after that decision has been taken. Where the employment record is relevant in reaching the decision of the disciplinary sanction, this must be clearly noted for any appeal hearings, but again this must not be disclosed to the Appeal Committee until after a decision has been made about the allegation.

23.0 Outcome of the hearing

23.1 The Headteacher may be informed verbally of the outcome of the hearing together with any subsequent action required by him/her, by the Chair of the hearing. In all cases the outcome will be confirmed by the Clerk in writing within 5 working days of the disciplinary hearing. A copy of the written notification will be retained on the Headteacher's personal file.

24.0 Appeal

24.1 If the Headteacher wishes to appeal the decision at any stage of the Formal Process s/he should do so, in writing, within 5 working days of notification of the decision to the Clerk to the hearing stating the grounds for appeal - Refer to Appendix 3 – Disciplinary Appeal Form

24.2 The Headteacher can appeal on the following grounds only:

- That the disciplinary procedure has been applied defectively or unfairly
- That new evidence has come to light that was not available at the previous meeting/hearing and that it is likely to make a difference to the original decision.

And, as a result, the outcome or level of sanction imposed was inappropriate.

24.3 The Headteacher must ensure that their Appeal clearly demonstrates that they have information/evidence available to them that substantiates their grounds for appeal. A Headteacher cannot appeal simply because they do not agree with or like the outcome.

24.4 Arrangements will normally be made for the appeal to be heard within 10 working days of receipt of the Appeal by the Chair of Governors or Clerk of the original hearing.

24.5 The Headteacher will be given notice in writing at least 7 working days in advance of the time and place of the appeal hearing.

24.6 The Chair (from the original hearing) and Headteacher should provide the Clerk with any written material to be used at the hearing at least 5 working days prior to the appeal. Any extension on the time frames must be agreed in advance by both parties.

- 24.7 The Clerk will arrange for a copy of the other party's written material to be provided to the Chair of Governors and the Headteacher at least 3 working days prior to the hearing.
- 24.8 In cases where the original hearing was chaired by a Hearings Committee, then the appeal hearing will be chaired by an alternative committee. In all cases the Appeal Hearings Committee will be advised by a representative from HR.
- 24.9 At the appeal hearing both parties (i.e. the Headteacher who is appealing against the action taken against them and the Chair of Governors who is presenting the management's case) will have the opportunity to state their case and to ask questions of each other and any witnesses
- 24.10 The Headteacher may be accompanied at the appeal hearing by a work colleague, or a Trade Union/Professional Association representative.
- 24.11 There will be full consideration of any new evidence before any decision is taken.
- 24.12 In the case of an appeal against action that includes dismissal, the Appeal Hearings Committee can decide that:
- the appeal is upheld, and that the sanction will be removed or a lesser sanction applied; or
 - the appeal is not upheld, and that the sanction remains the same.
- 24.13 The decision of the Appeal Hearings Committee will be communicated in writing within 5 working days of the decision.
- 24.14 The decision of the Appeal Hearings Committee is final and there is no further internal right of appeal.

25.0 Representation

- 25.1 As confirmed throughout the policy, Headteachers may be represented at formal hearings and appeals by a work colleague, a Trade Union or a Professional Association representative. The accompanying person can address the hearing but cannot answer questions on behalf of the employee unless as agreed by the Chair of the hearing.

26.0 Interpretation

- 26.1 Any questions as to the interpretation of this policy should be referred to HR.

Appendix 1 - What is a Disciplinary Matter?

A Disciplinary matter may arise when an employee breaches School rules or fails to meet the required standards with regard to conduct which appears to warrant informal or formal disciplinary action.

The following is a list of examples of Misconduct and Gross Misconduct that would normally justify sanctions under the Disciplinary Policy and are intended to help employees appreciate the acceptable standards of conduct required by the School.

No set of rules can cover all disciplinary matters and this list is, therefore, illustrative and not exhaustive.

Misconduct

The following examples of misconduct would normally justify warnings including, in some cases, final written warnings. Some may in certain circumstances constitute gross misconduct. The level of the sanction will depend on the seriousness of the offence and the degree of any mitigation.

- **Disobedience of instructions** - when an employee without sufficient reason fails to follow a reasonable instruction whether in writing or not, this will include failure to observe the operational requirements of the employing department
- **Insubordination** - when an employee is insubordinate by word, act or demeanour
- **Conduct likely to injure or damage the standing of the School**
- **Absence from work** - when an employee:
 - without sufficient reason, is absent from work or is late for work
 - without permission or sufficient reason, leaves their place of work, this could include taking excessive refreshment breaks
 - is confined in HM Prison or other similar institution

Please note: where an employee's work attendance record is unsatisfactory and is mainly or partially due to ill health, i.e. certificated or self-certificated sickness, the School's Managing Attendance Policy/Managing Underperformance Policy will be utilised, where appropriate

- **Neglect of duty** - when an employee
 - without sufficient reason, fails to carry out the work for which he/she is employed

- without sufficient reason, fails to discharge duties under the Health and Safety at Work Act 1974 in accordance with the School's safety policies and procedures
- by carelessness or neglect, suffers or causes any loss, damage or injury to occur to any person or property

- fails to report any matter which it is his/her duty to report
- fails to make an entry which it is his/her duty to make, in any book or document
- fails, properly to account for, or to make a prompt and true return of, any money or property, which comes into his/her possession in the course of their work
- fails to follow or adopt proper professional standards appropriate to their post
- **Unauthorised Employment**
 - engaging in unauthorised employment during hours when contracted to work for the School
 - engaging in employment during off-duty hours which is detrimental to the interests of the School
 - unauthorised secondary employment (where applicable)
- **Falsification of Information** - when an employee:
 - knowingly or through neglect, makes any false, misleading, or inaccurate oral or written statement or entry in any record or document made, kept or required for the purposes of the School
 - Has knowingly or through neglect, falsified any information used in support of an application for any post in the employment of the School
- **Damage to the School's Property** - when an employee:
 - wilfully or without appropriate care, causes any waste, loss or damage to any property of the School
 - fails to report any loss of, or damage, to any such property issued to, or used by, them or entrusted to their care
- **Indecency** and behaviour including the display of obscene or offensive materials
- **Alleged Criminal Conduct**, the School may decide to hold a disciplinary hearing prior to any Court proceedings and reach a decision on the facts available. In these cases, advice should be sought from the Policy before undertaking an internal disciplinary process. When an employee has been found guilty of a criminal offence by a Court of Law, the nature of the offence may require the School to take disciplinary action.
- **Breach of the Schools IT User Policy**
- **Breach of Guidelines on Social Networking Sites and Personal Internet Usage**
- **Being an Accessory to a Disciplinary Offence** - i.e. when an employee conspires or is knowingly an accessory to any disciplinary offence
- **Neglect of health** – i.e. when an employee fails to comply with medical instructions or, whilst absent from duty on account of sickness, wilfully commits any act or wilfully adopts any conduct intended to hinder their return to work
- **Unauthorised disclosure, destruction or alteration** of any record or document kept or required by the School

Gross Misconduct

The School will generally consider Gross Misconduct to be misconduct of such a nature that the School is justified in no longer tolerating the continued presence at the place of work of the employee concerned.

Examples of offences which may amount to gross misconduct include:

- **Conduct likely to injure or damage the standing of the School**
- **Alleged Criminal Conduct**, the School may decide to hold a disciplinary hearing prior to any Court proceedings and reach a decision on the facts available. In these cases, advice should be sought from the Police before undertaking an internal disciplinary process. When an employee has been found guilty of a criminal offence by a Court of Law, the nature of the offence may require the School to take disciplinary action.
- **Neglect of duty** - when an employee
 - without sufficient cause, fails to carry out the work for which he/she is employed
 - without sufficient cause, fails to discharge duties under the Health and Safety at Work Act 1974 in accordance with the School's safety policies and procedures
 - by carelessness or neglect, suffers or causes any loss, damage or injury to occur to any person or property
 - fails to report any matter which it is his/her duty to report
 - fails to make an entry which it is his/her duty to make, in any book or document
 - fails, properly to account for, or to make a prompt and true return of, any money or property, which comes into his/her possession in the course of their work
 - fails to follow or adopt proper professional standards appropriate to trade or profession
- **Indecency** and behaviour including the display of obscene or offensive materials
- **Unauthorised removal of the School's or other employees' property**
- **Offences of dishonesty, theft or fraud** including benefit fraud, bribery and other corruption
- **Acts of incitement or actual acts of discrimination** on the grounds of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity
- **Being under the influence of drink, or drugs** (other than those which have been medically prescribed) i.e. when an employee is rendered unfit, through drink or drugs, for duties which they are or will be required to perform or which they may reasonably foresee as having to perform
- **Falsification of Information** - when an employee:
 - knowingly or through neglect, makes any false, misleading, or inaccurate oral or written statement or entry in any record or document made, kept or required for the purposes of the School

- Has knowingly or through neglect, falsified any information used in support of an application for any post in the employment of the School
- **Falsification of work records**, for example, time sheets, expense claims
- **Falsification of qualifications** which are a stated requirement of employment or other critical information at the time of appointment
- **Failure to divulge relevant medical information (advice should be sought from the School's HR provider on relevance of the Equality Act).**
- **Damage to the School's Property** - when an employee:
 - wilfully or without appropriate care, causes any waste, loss or damage to any property of the School
 - fails to report any loss of, or damage, to any such property issued to, or used by, them or entrusted to their care
- **Serious breaches of safety regulations**, including deliberate damage to, neglect of, or misappropriation of safety equipment
- **Serious driving offences**
- **Breach of the School's Code of Conduct**
- **Breach of the School's IT User Policy**
- **Gross negligence**
- **Claiming sick pay when fit to attend work**
- **Working for gain while on sick leave**
- **Sexual offences**
- **Breach of Guidelines on Social Networking Sites and Personal Internet Usage**
- **Sexual misconduct at work**
- **Harassment and/or bullying at work** including abuse of authority, i.e. when an employee's conduct towards fellow employees or members of the public is oppressive or abusive
- **Fighting, physical assault or threatened violence**
- **Unauthorised disclosure, destruction or alteration** of any record or document kept or required by the School
- **Improper disclosure of information or making false, inaccurate or misleading statements**
- **Improper use of an employee's official position** for private advantage (or for the private advantage of another person) including accepting or soliciting gratuities, gifts or hospitality without approval

- **Deliberate and unreasonable refusal to co-operate with School policies**
- **Committing an act outside working hours** which is incompatible or inconsistent with the employee's job or which is likely to bring discredit to or lead to lack of confidence in the School
- **Mistreatment of Children/Pupils** in the care of the School either through intent or neglect
- **Verbal, physical, emotional and/or sexual abuse of pupils**
- **Sleeping on duty**
- **Fraudulently obtaining public funds from a Local Authority or other Government Agency**
- **Entitlement to Work in the UK** – failure to provide satisfactory evidence required by the School of an employee's entitlement to enter or remain in the UK.
- **Breach of the Leave of Absence Policy** – e.g. if leave is requested and declined, but taken anyway
- **Deliberate insubordination** – not following reasonable management instructions where consequences have previously been outlined.

Appendix 2 - Guidance On Allegations Of Child Abuse

Concerns and allegations against colleagues can be distressing and sometimes difficult to believe. However, children may be subjected to abuse by those who work with them in any setting.

Therefore, all allegations of abuse (including inappropriate physical contact) by a Headteacher must be taken seriously and examined objectively.

1. The Chair of Governors should immediately consult the Director of Children's Services or his/her representative, and, in the case of Aided schools, the Diocesan Director of Education, or his/her representative.
2. The Chair of Governors should contact and consult with the Council's Local Authority Designated Officer for Safeguarding Children in Education, so that an initial consideration can be made as to whether an offence may have been committed that constitutes child abuse. It is important to ensure that all interested parties are kept appropriately informed.
3. The Chair of Governors should record information about times, dates, locations and details of any witnesses but should not conduct an investigation
4. All allegations of child abuse must be managed in accordance with Milton Keynes' Child Protection Policy and the Managing Allegations Against Staff in Education Policy. Current guidance is available on [Department for Education](#) website.
5. Further information can be found in: "Protecting Children from Abuse: The Role of the Education Service" Circular 10/95, "Staff Facing an Allegation of Abuse" Joint NEOST/Teacher Guidance Sept 2002. Both are available on [Dept for Education](#) website
6. There will be three possible outcomes of the initial consideration:
 - an immediate referral to Children's Social Care or the Police;
 - the allegation was prompted by inappropriate behaviour but is not a child protection issue. The chair of governors must then decide whether or not to appoint an investigating officer under the school's disciplinary procedure, in order to determine whether formal disciplinary action should be taken;
 - The allegation is apparently without foundation.
7. If, following initial consideration, the allegation of child abuse is referred to Children's Social Care and/or the Police then the chair of governors should follow the correct procedure to consider suspending the Headteacher from work pending further investigation. The Headteacher should be given a copy of the Managing Allegations Against Staff in Education Policy.

Appendix 3 – Disciplinary Appeal Form

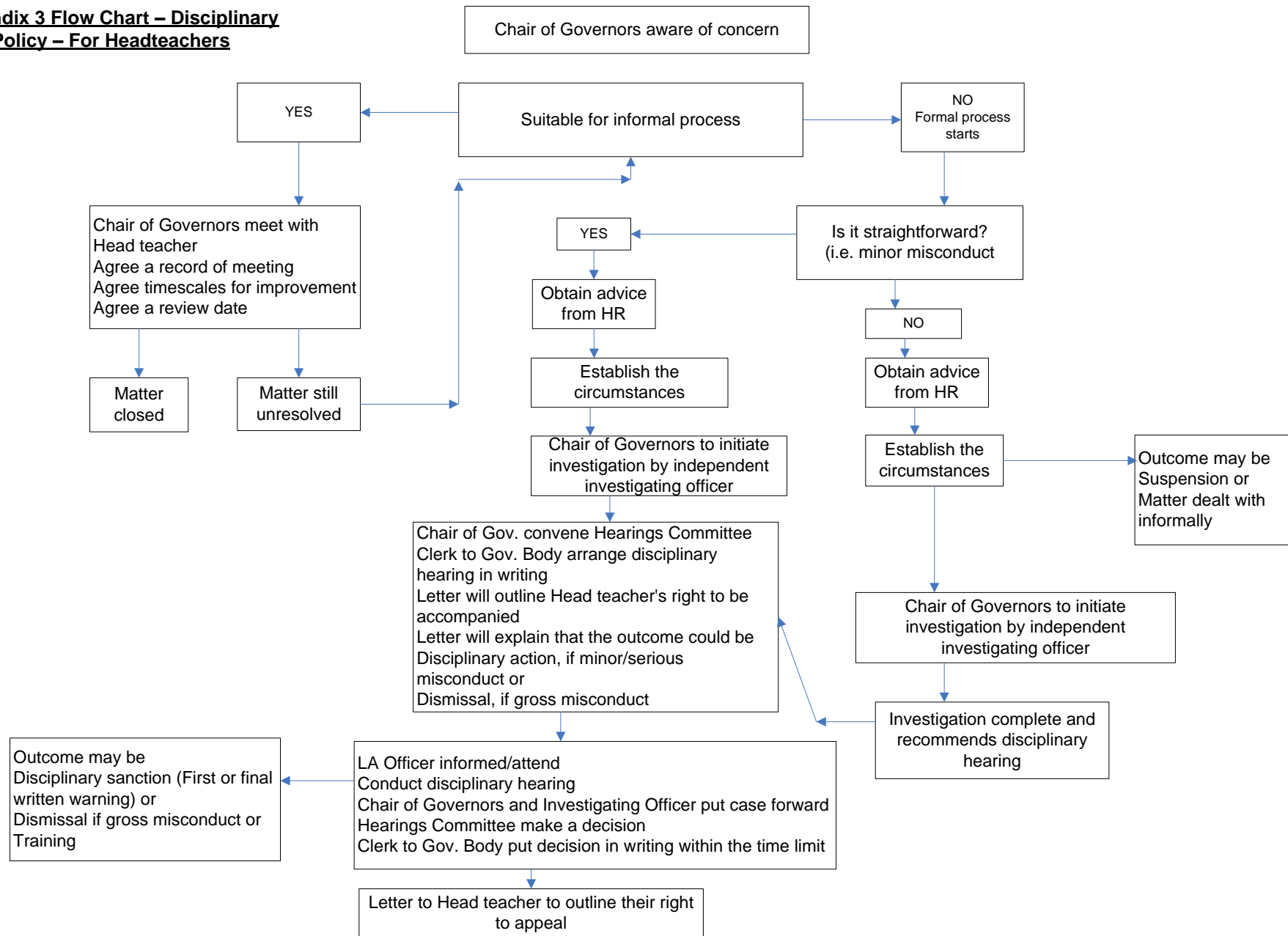
This form is to be completed by the employee and then forwarded to the Clerk of the original hearing. It must be completed in full and provide sufficient detail. Failure to provide clear substantiated reasons for appeal will mean that your request for an appeal hearing will not be progressed.

SECTION 1: Personal details	
Name:	School:
Job Title:	
SECTION 2: Appeal details	
Please provide details of why you wish to appeal against the decision. Please make sure that you explain clearly what information/evidence you have that will support your grounds for appeal as detailed below.	
<p>N.B: You may only appeal on one or more of the following grounds:</p> <ul style="list-style-type: none"> • That the disciplinary procedure has been applied defectively or unfairly • That new evidence has come to light that was not available at the disciplinary hearing and that is likely to make a difference to the original decision. <p>and, as a result, the level of sanction imposed was inappropriate.</p>	
<p>Against the level of sanction imposed</p> <p>Please explain fully why you believe the level of sanction was too severe and explain what facts/information/evidence you have in your possession that justifies your view. Simply appealing because you do not 'like' the penalty imposed, without any corroborating evidence, is not sufficient grounds for an appeal.</p>	<p>Why I believe the level of sanction was too severe:</p>
	<p>The evidence I have that supports this view is as follows:</p>

<p>And/or</p> <p>That the disciplinary procedure has been applied defectively or unfairly.</p> <p>Please explain fully why you believe this to be the case and state what evidence you have to substantiate that view.</p>	<p>Why I believe the procedure has been applied defectively or unfairly:</p>
	<p>The evidence I have that supports this view is as follows:</p>
<p>And/or</p> <p>That new evidence has come to light that was not available at the disciplinary hearing and that is likely to make a difference to the original decision.</p> <p>Please explain fully what this new evidence is, how it came to light and why it is likely to affect the original decision.</p>	<p>The new evidence that has come to light is as follows:</p>
	<p>I believe it is likely to affect the original decision because:</p>

<p>Signature of employee:</p>
<p>Date:</p>

Appendix 3 Flow Chart – Disciplinary Policy – For Headteachers



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