IMBERHORNE SCHOOL

Headteacher: Mr Matthew Whatford

Strive Support Succeed

Disciplinary Policy	
Date of review:	June 2026
Prepared by:	Matthew Whatford
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Policy based on:	West Sussex model policy
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This document is in two parts:

Part A: The Disciplinary Policy

Part B: Procedures for Disciplinaries and Appeals

Part A – the Disciplinary Policy

Aim of the policy
The aim of this policy is to provide a clear procedure for managing issues of staff misconduct. This policy should be read in conjunction with the Guidance notes on the Disciplinary Policy.

Introduction

Headteacher's role
The Headteacher is responsible for the management and standards for conduct and discipline of the school and for ensuring that all employees are aware of the expectations of them and any rules applying to them. All employees are responsible for their own conduct and adherence to the standards of conduct set out for them.

The responsibility for initiating the procedure rests with the Headteacher of the school. It is expected that the Headteacher will take the lead in making disciplinary decisions for staff. This includes:

- Carrying out a short investigation or appointing an Investigating Officer
- Receiving the investigation report and deciding if there is a case to answer
- Leading the Disciplinary Panel.

In the event that the Headteacher is implicated in the disciplinary matter or needs to be available to act as a witness, then the role of Disciplinary Lead will pass to one of the Governors. If a Headteacher has been part of the disciplinary panel or acted as a witness it will not be appropriate for them to be part of any Appeal Panel.

Representatives from the Local Authority
The West Sussex HR Team can provide advice to Headteachers or Governing Bodies on any disciplinary matter. The School Headteacher or Governing Body may invite them to attend meetings at any point in the procedure.

Additionally, the Director of Education and Skills, or their representative (usually an Advisor from HR Team), has the right to attend all Dismissal and Dismissal Appeal meetings, where they may ask questions during the meeting and provide advice to the panel.

Headteacher Disciplinary matters

The term employee includes the Headteacher. Any disciplinary matters relating to the conduct of the Headteacher will be managed by the Chair of Governors in liaison with the Local Authority.

Disciplinary panels for Headteachers will be made up of representatives from the Governing Body, including Federation governors where appropriate. The procedure will be initiated by a representative from the Governing Body (usually the Chair of Governors), following consultation with a representative from the Director of Education and Skills, usually a Senior Officer from the Local Authority.

The Director of Education and Skills may send a representative to all disciplinary and appeal meetings involving the Headteacher.

Safeguarding matters and external processes

Where at any stage in the procedure, a safeguarding matter is suspected, the appropriate safeguarding team must be referred to for advice. Their details and the procedure to be followed is available through the following link.
https://www.westsussexscp.org.uk/professionals/professional-disagreements-and-concerns/ladoinformation

The West Sussex HR team and the LADO can advise headteachers/line managers about next steps. Other safeguarding teams may need to be involved as needed. Further details are on the County Council's web site.
https://www.westsussex.gov.uk/education-children-and-families/keeping-children-safe/raise-a-concern-about-a-child/

If an allegation of abuse is made against any employee of a school, the school must refer to the statutory guidance from the Department for Education entitled "Allegations of abuse against teachers and non-teaching staff" (https://www.gov.uk/government/publications/allegations-of-abuse-against-teachers-and-non-teaching-staff). This guidance covers all schools and educational establishments, including Academies and Free Schools.

Where it becomes necessary to refer matters to external parties (e.g. the Police) further proceedings at school level will be held in abeyance until the conclusion of these processes, including any court/criminal proceedings.

Guiding principles that govern the Disciplinary Policy

- The school is committed to a fair, equitable and transparent process.
- The school is committed to ensuring that all involved, both the employee who ~~has had~~ is under investigation and any claimants are treated with dignity and respect.
- The welfare of all parties will be considered carefully at all stages.

- All disciplinary matters will be dealt with as promptly as possible to achieve a balance between timeliness and the need to ensure fair processes.
- In all but the more complex of cases, the Informal Stage will be completed before proceeding to the Formal Stage.
- Except in cases of gross misconduct, employees will usually have been given at least one warning before they are dismissed.

For Teachers: The National Teachers' Standards, define the behaviour and attitudes that set the required standard for personal and professional conduct throughout a teacher's career. The Teachers' Standards will, therefore, be a reference point when considering whether a teacher's conduct has fallen significantly short of the standard of the behaviour expected of a teacher.

Right to be accompanied
Employees have the right to be accompanied at all Formal stages of the procedure, including to Investigation meetings. This does not include a right to be accompanied to meetings in the Informal Stage.

A Trade Union Representative can accompany employees to Suspension Meetings, providing this can be arranged in time for the meeting. Suspension Meetings cannot be delayed to enable representation to be sought.

The employee's companion can be:
- a work colleague
- a full-time Trade Union Official or
- an accredited Trade Union Representative.

In addition, if the employee is attending a Dismissal Appeal Meeting, the employee may bring a legal representative as their companion, for example, a solicitor.

In order to exercise their right to be accompanied, the employee must provide the Headteacher with the name and role of their companion in good time before the meeting.

The Informal stage of the procedure
Cases of minor misconduct, for example, poor time-keeping, are often best dealt with informally through supervision or through a discreet conversation to address these matters. This approach can be effective in dealing with problems quickly and confidentially.

Where a Headteacher has minor conduct concerns, they should speak to the employee informally about the issue. This is normally carried out as a meeting between the employee and the Headteacher, although it is possible to delegate this to the employee's Line Manager or a member of the School's Leadership team. The purpose of the meeting should be notified to the employee and referenced as Informal.

The Headteacher, or their representative, should advise the employee of the following:

- Where the employee is falling short of expectations and any supporting evidence.

- How the employee's conduct is expected to improve.
- Timescale for improvement.
- Additionally, the Headteacher can advise the employee that they are issuing them with a verbal or informal warning.

A written note of the meeting should be made and kept by the Headteacher, and a copy must be given to the employee. This should include the areas of discussion, the agreed action plan, and a timescale for improvement. The employee should be offered the opportunity to add their comments to the meeting note. A template form is available on the West Sussex Services for Schools website.

There is no specific procedure for the employee to appeal or dispute the Informal stage, although the employee does have recourse to the Grievance Procedure. For further details, please see the Guidance notes.

Moving to the Formal Procedure
The Formal Disciplinary Procedure should be invoked if there is:

- A recurrence of the behaviour, or
- an escalation to a more serious breach of conduct as defined in the West Sussex Standards of Conduct, or
- a suspected serious breach of conduct.

The Investigation Stage
Before carrying out any disciplinary action, it is necessary to undertake an investigation in order to understand the facts.

There are two types of investigation:

- A short, fact-finding investigation, which is carried out by the Headteacher or another Senior Leader from the school as directed by the Headteacher. This is a useful means of checking the facts for a matter of minor misconduct. Alternatively, it can be used as a preliminary to a full investigation.

- A full and formal investigation, which is carried out by an Investigating Officer, appointed by the Headteacher. Their findings will be presented in a written report and given to the Headteacher, who will decide if there is a disciplinary case to answer. This process will be guided by the West Sussex HR Team to ensure fairness and consistency of approach.

The Guidance Notes provide further information on the investigation procedure. In addition, there are specific templates for Investigating Officers to follow when writing an Investigation Report.

Outcome of the Investigation
The Investigation Report is given to the Headteacher (*Chair of Governors in the case of the report being about the Headteacher*) who decides if the employee is to be called to a formal disciplinary meeting, and what the potential sanctions are.

Before writing to the employee, the Headteacher will also need to identify from the Investigation Report which witnesses (if any) they wish to call to the disciplinary

meeting. The HR Team can assist with this and there is supporting information in the Guidance Document on identifying witnesses for hearings.

Preparing for a Disciplinary meeting
If the employee is to be asked to attend a Disciplinary Meeting (Investigation Outcome Meeting), they must be a sent a letter and given at least 5 working days' notice. The letter will set out:

- The allegations
- The right to be accompanied by a companion
- The time, date and venue for the meeting, including the process to request a change if the time is significantly impractical for the employee or their companion to attend
- The names of the people who will be present at the Disciplinary Meeting, including those who have been called as a witness, and
- The potential sanctions.

In addition, copies of the Investigation report, a copy of the Disciplinary Policy and Guidance, and any statements or documents to be used at the disciplinary meeting must be sent to the employee.

The employee will be asked to provide:

- the name of their Companion
- The names of any witnesses they are calling, and
- Any additional documentation that they wish to be considered, no later than 3 working days before the meeting.

The employee is expected to attend the disciplinary meeting. However, if there are exceptional circumstances that mean the employee is unable to attend at the date or time invited, or if their companion is unable to attend, the employee may request a change to the meeting time/date. The employee must provide reasons for submitting this request, which will be granted at the Headteacher's discretion.

No formal action
If a Headteacher decides not to proceed to a formal disciplinary meeting, they should notify the employee in writing and arrange to meet with them to discuss the outcomes of the Investigation and the reasons why the matter is not being pursued formally. The employee may bring a companion with them to this meeting.
The Headteacher (*or representative from the Governing Body when the Headteacher is the subject of the meeting)* may also like to consider if there is a need for any further, informal action, for example, a 'lessons learned' meeting.

Suspension
During a disciplinary investigation, an individual should only be suspended if there is no reasonable alternative. Only in exceptional cases, where a serious breach of conduct as defined in the current version of West Sussex Standards of Conduct is suspected, may suspension be appropriate.

- Suspension will always be on full pay and is a "neutral act", i.e. an employee being suspended does not imply guilt.

- The length of time that an employee may be suspended will vary depending on the complexity of the allegations. Periods of suspension will be kept to a minimum and will be reviewed to ensure that no employee is suspended for longer than is necessary.

- Suspension may be considered before an investigation begins, or at any time throughout the investigation process if information comes to light which makes suspension appropriate.

Approvals

- Suspension from work can only be authorised by a Headteacher, who must inform the Chair of Governors. The West Sussex HR Team must be consulted before a suspension decision is made, and informed immediately following a suspension.

Procedure

- The Headteacher should arrange to meet with the employee before the suspension decision is made. In exceptional circumstances, such as the employee being in hospital or in custody, an employee can be suspended without a meeting.

- The employee must be given a letter confirming the details of their suspension within 4 working days.

Contact Officer

- A Contact Officer should be appointed when an employee is suspended. In cases where an employee is given alternative duties, it may be helpful to appoint a Contact Officer as well.

There is guidance on suspension available on the West Sussex Services for Schools website. In addition, advice is available from the HR Management Advice Team.

Roles and responsibilities

At all stages in the policy and as far as possible, different people will:

- Lead the investigation
- Chair the disciplinary meeting, and
- Chair the appeal meeting.

If there are serious impracticalities with this approach, for example, due to someone being absent for a prolonged time, or because they are already involved in the case in some way, then practical alternatives should be agreed with the employee.

Who will be present at the Disciplinary meeting?

For cases of minor misconduct (a first written or level one warning) and more serious misconduct (a final written or level two warning):

- The employee and their companion
- The Headteacher, or their representative. (The Headteacher may ask a Governor to assist them as a panel member at a disciplinary meeting)

- A notetaker may be present, if asked
- An advisor from the West Sussex HR Team may be present.

For more serious cases of misconduct where dismissal is a potential sanction:

- The employee and their companion
- A panel consisting of the Headteacher (or their representative), plus two Governors
- An advisor from the West Sussex HR Team
- The Investigating Officer
- A note taker (one note taker only)

In addition, witnesses may be present at any formal meeting to answer questions. They will leave the room when they have finished. The Headteacher may appoint a representative if it is not appropriate for them to be involved in the Disciplinary, for example, if they have been previously involved OR if the employee's management structure makes that appropriate.

Potential sanctions

Before an employee is invited to a Disciplinary Meeting, the Headteacher will have identified the range of potential sanctions, and these will be explained to the employee in the letter.

The sanctions available to schools are:

- First written warning: this is a level one warning, current for 6 months
- Final written warning or level two warning, current for 1 year
- Dismissal with notice, and
- Dismissal without notice – this is applied in cases where "Gross misconduct" is found.

In cases where Minor Misconduct is found, a level one warning will be issued. If that misconduct is repeated, the sanction would usually escalate to a level two warning (following a further hearing), and potentially a dismissal (following a third hearing).

However, where an employee is accused of a more serious allegation, the Headteacher will outline a range of sanctions in the letter. On hearing the case, the panel will decide which sanction to apply. It is not necessary for the employee to have had prior warnings on file if the misconduct is sufficiently serious.

Additionally, at all stages:

- The allegations may be rejected if it is considered that there is no case to answer
- The matter may be referred to another procedure, if appropriate
- **For non-teaching staff only**: If an employee is given a formal warning, and if they are not at the top of their salary scale, then the Headteacher may authorise the employee's increment to be withheld until the warning has lapsed. If this is to be actioned, the employee will be told in writing and be given the right of Appeal.

The West Sussex HR Team will be able to provide advice on the appropriate potential sanctions.

The Disciplinary meeting
The employee will be called to attend a Disciplinary meeting in order to have their opportunity to respond to the allegations set out in the letter and the Investigation. The process is set out in Part B – the procedures for disciplinary meetings and appeals – and there is supplementary information in the Guidance.

Notification of the outcome
If at all possible, the Headteacher/Disciplinary Chairperson will inform the employee of the outcome in person, and this will be followed by a letter within 5 working days of the decision being taken.

The letter will include:

- The nature of the allegations.
- The findings of the Headteacher/Panel.
- The decision of the Disciplinary Chairperson/Panel including the nature of any sanction (and the length of time it will be kept on their personal file in the cases of warnings).
- The likely outcome if there is no improvement by the employee.
- The date of any review of the warning (if appropriate).
- The right to appeal against the decision.

The Chair of Governors must be informed of all written warnings issued, and the outcome of any appeal meetings.

<u>Follow up – reviewing conduct to ensure improvements are met</u>
The Headteacher (or *representative from the Governing Body, usually the Chair of Governors and a Senior Officer, on behalf of the Director of Education and Skills in the case that the Headteacher is the subject)* will review the employee's conduct at the end of the review period. If there has been limited or no improvement, the Headteacher (or *representative from the Governing Body, usually the Chair of Governors, and a Senior Officer, on behalf of the Director of Education and Skills in the case that the Headteacher is the subject)* may decide to proceed to another disciplinary meeting.

If there has been sufficient improvement, a letter should be sent to the employee confirming this fact at the end of the review period.

The Appeal process
An employee who wishes to appeal against a warning or a dismissal must do so in writing within 5 working days of receiving written notification.

In their letter, the employee must set out the grounds for their Appeal, and this must be sent to the Headteacher (*Clerk to the Governing Body in a case where the Headteacher is the subject*), who will arrange for an Appeal to be heard within a reasonable timeframe.

The Appeal will be heard by a panel of 3 Governors, one of which will act as Chairperson. An advisor from HR Management Advice will be present (if it is a dismissal appeal) and a note taker.

For Appeals against Dismissal, the employee may bring a legal representative, for example, a solicitor.

At the Appeal Meeting, the employee will be asked to give their reasons for appeal.

- For appeals against a warning, the Appeal will focus on these "grounds" for appeal and will not be a re-hearing of the disciplinary
- For Appeals against dismissal, the meeting will be a re-hearing of the case
- Witnesses may be called to appeal hearings but are not automatically required to do so.

Following a short adjournment to consider the employee's arguments, the Panel will invite the employee back into the meeting to confirm the outcome. This will be confirmed in writing to the employee within 5 working days.

The outcome of the Appeal meeting can be one of the following:

- **To uphold the employee's Appeal in full**. This will mean that the employee's warning is revoked in full, or their dismissal is overturned
- **To reject the Appeal**. This means that the warning will remain on file, or the dismissal remain in place
- **A partial uphold**. This is where the Appeal panel uphold some points of the Appeal but reject others. This category is not to be used when the Appeal panel cannot reach a decision. Where there is a "Partial uphold" outcome, the Appeal Chairperson will need to record in the outcome letter if each point has been "upheld" or "rejected".

The panel will need to decide, in cases of a partial uphold, if the sanction is to be modified, reduced (e.g. to a lesser sanction or shorter time frame) or if it will remain in place.

The Appeal Panel cannot increase the sanction awarded by the disciplinary. The panel may not make any award of compensation to the employee or vary unilaterally the employee's contract of employment.

If it is not possible to reach a decision immediately following the Appeal meeting, the employee will be notified in writing within 5 days of the decision being taken.

Further information about the structure and format of the Appeal meeting is given in the Guidance notes.

General points

Failure to attend

All parties should make every effort to attend the Disciplinary meeting.

- If the employee is unable to attend the meeting for legitimate reasons outside of their control, the meeting may be postponed and rearranged. This will be at the discretion of the Headteacher. The employee should make every effort to

contact the discipline panel before the time of the meeting. Usually only one postponement and rearrangement will be agreed.

- If the employee refuses to attend, the meeting can be held without the employee present. The employee should be allowed to submit documents for consideration at the meeting.

- If the employee insists on a companion being present who continues to be unavailable, and a suitable alternative companion is available, then the Chair of the meeting may decide to proceed with the meeting. If an employee's companion continues to be unavailable and no suitable alternative companion is available, the Chair may decide to proceed with the meeting.

Timescales
As a general rule, it is in all parties' interest for disciplinary matters to be dealt with promptly, and all those involved with a disciplinary matter have a responsibility in this regard.

In the Guidance Document there are expected timescales given in which it would normally be reasonable for a disciplinary meeting or investigation to be carried out in. Any changes to the timescales set out in the Policy will need to be agreed by all parties.

Record keeping
Records of disciplinary matters should be treated as confidential and kept securely.

Notes will be made of all formal investigation, disciplinary and appeal meetings, and copies will be given to the employee for information. It is the responsibility of the Headteacher/Chairperson/Clerk to the Governing Body to arrange for a note taker. In some limited circumstances, information may be withheld to protect the identity of a witness, e.g. whistle blowing, severe harassment, safeguarding or criminal matters.

If any Safeguarding issues have arisen during the disciplinary, the documentation will need to be kept securely in accordance with Safeguarding Procedures.

Amendments to the Disciplinary Procedure
In exceptional circumstances there may be a need to amend the procedure as set out in this policy, e.g. it may be necessary for someone other than the Headteacher to chair the disciplinary meeting. Any such amendment(s) will be to ensure that the employee has a fair hearing and will need to be subject to the agreement of all parties.

Overlapping procedures
Where an employee raises a Grievance during the disciplinary process (which is unconnected with the disciplinary) then the disciplinary process can be temporarily held in abeyance at the Headteacher's discretion until the outcome of the grievance is known. However, where the two procedures are about related issues, it may be possible to deal with the two concurrently.

Where another procedural policy applies, such as the Sickness or Capability procedure, it may be possible to cover the essential elements of the procedures at a

single meeting, with a view to minimising the number of letters and meetings required. Where overlapping procedures may apply, please contact The West Sussex HR Team for help.

Trade Union Officials
In keeping with ACAS requirements, no action will be taken against an accredited Trade Union representative without prior discussion with a full-time official of the Trade Union concerned, except in cases of Gross Misconduct where immediate action is required. In these cases, discussion with a full-time Trade Union Representative will be undertaken as soon as possible afterwards.

Employees with disabilities
In accordance with the Equalities Act, if an employee requires any reasonable adjustments to be made to enable them to fully participate in the process, they should notify the Headteacher as soon as possible (and provide a minimum 5 working days' notice).

Referral to the Teaching Agency (Teachers Only)
If a teacher has been dismissed for serious misconduct or would have been dismissed for that reason if they had not resigned, the case may be referred to the Teaching Regulation Agency (TRA) by the West Sussex HR Team. The TRA considers, investigates and hears cases of alleged serious misconduct. This process could lead to the issue of a prohibition order against the teacher concerned.

See the Guidance for further information.

The legal framework for dismissals

Dismissal: Community, Voluntary Controlled, Community Special & Maintained Nursery Schools

The role of the Headteacher and governors in the dismissal of an employee at a school with a delegated budget is determined by the School Staffing (England) Regulations 2009, which provides as follows:

i) Where a Headteacher or governing body is to consider dismissing an employee, it must give him/her an opportunity to make representations (including oral representations) to the person(s) taking the decision, and it must have regard to any representations made;

ii) If a determination is made to dismiss the employee, the Local Authority must be notified within 14 days, and they must issue notice of dismissal or terminate the contract without notice if entitled to do so by reason of the employee's conduct;

iii) The employee must be given the opportunity to appeal against the decision to dismiss. If the subsequent appeal reverses the dismissal decision, notice (or the dismissal itself, in cases of dismissal without notice) may be rescinded.

N.B. The governing body is required to approve procedures to implement (i) and (ii). The Local Authority procedures have been subject to consultation and are recommended for adoption.

Part B – Procedures for Disciplinary meetings and Appeals

Introduction
This procedural guidance has been written in accordance with the Education (school staffing) Regulations 2009, which comply with S35 and S36 of the Education Act 2002. There is statutory guidance to accompany these regulations, available from the Department for Education.

Copies of this procedure will be held in every school and be freely available to all employees.

Overview of a Disciplinary meeting
The meeting will open with introductions, confirmation of the names of witnesses, and confirmation of the documents to be considered during the meeting. If there are additional documents to be added, or discrepancies, the meeting will be adjourned to enable the documents to be copied and read.

The Chair of the meeting will explain the purpose of the meeting and state precisely the allegation against the employee and outline the process.

The Chair will ask the employee if they want to respond to the allegations by providing an initial response, after which the Headteacher (and any other panel members) may ask questions of the employee.

There will then be an opportunity for witnesses to be called; first, any witnesses which the Headteacher (or person chairing the Disciplinary) has identified, followed by any witnesses that the employee has called.

The Investigating Officer may be called as a witness by either party.

The employee and their Companion, the Headteacher and any members of the panel will all have the opportunity to ask questions of the witnesses, who will leave the room when they have finished responding.

Witnesses may be recalled if further questions subsequently arise.

When all the witnesses have been questioned, the employee will be invited to make any final comments. They may ask their Companion to speak for them, if they choose.

It is useful then for the Chairperson to sum up all the information that they have heard in the meeting, to enable all parties to be reminded of the nature of the offence, the arguments and evidence put forward and to ensure nothing is missed.

The employee will then be asked to withdraw, while the Headteacher and any panel members deliberate.

General rules

- Those involved in disciplinary proceedings need to be fair, impartial and reasonable throughout.

- The following rules of conduct shall apply to all formal disciplinary meetings including appeal meetings under this Procedure.

- A governor is ineligible to serve on a disciplinary committee where he/she is related to the employee in question, or has made allegations, or has been a witness to an alleged incident that results in disciplinary proceedings.

- Where a panel of governors is required to determine an appeal against any disciplinary action, the panel will include no fewer than three governors and no governor who has had prior involvement in the case shall consider an appeal against that decision. The membership of an appeal committee shall include no fewer members than the committee whose decision is the subject of appeal (where this is relevant).

- The Headteacher or panel of governors may be advised by a Legal representative or a representative from The West Sussex HR Team or some other representative of the Assistant Director: Education and Skills. These advisors may retire with the panel for the purpose of giving advice (they do not, however, have any role in making the decision).

- Meetings will be held at a time and place, which, as far as possible, are acceptable to all parties. A meeting should be adjourned to another date after 5 hours or at 6pm; whichever is the earlier, unless both parties agree otherwise.

- Copies of all documentary evidence will be available to the employee and the panel as early as possible in advance of the meeting.

- Accommodation will be provided for the employee and his or her representative or friend/work colleague to meet in private before, during and after the meeting.

- The Headteacher/senior officers, any governor(s) and the employee and his or her representative will attend throughout the meeting. Witnesses will be present only while they are required to give evidence at the meeting.

- During the meeting, the Panel or the employee may request one or more short adjournments. Such requests will not be unreasonably refused.

- Witnesses will be instructed not to discuss their evidence with other witnesses during the meeting.

- Where governors are required for a panel, one or more independent governors may be sourced from another local school (e.g. one of the other schools in the Mid Sussex Federation) or through West Sussex's Governor Services team.

Procedures for Disciplinary hearings

Each governing body should have a procedure to deal with Disciplinaries, including dismissals. It is suggested that the Rules of Conduct of Disciplinary Hearings set out here should form the basis of this.

Notice

- The employee should be given at least 5 clear working days' written notice of the date, time and place of the disciplinary or the appeal hearing. The employee should be advised of their right to be represented. The notice calling the employee to the disciplinary hearing will set out the allegations to be discussed at the meeting and the potential sanctions.

Opening the meeting

- The Chair of the Disciplinary Panel/Headteacher should start the proceedings by introducing himself/herself and others present to the employee, explaining the role of each of those present. The employee should introduce any person who is accompanying him/her. The Chair/Headteacher should then confirm the names of any witnesses that are to be called to the meeting

- The Headteacher or Chairperson/*senior officer* will first present the allegation(s) against the employee/*Headteacher* as appropriate, providing such evidence, documentary or by oral statements from witnesses, as necessary.

Questioning the employee and witnesses

- The employee or his/her representative will then be asked to give an explanation of the circumstances which led to the convening of the disciplinary meeting, providing such evidence, documentary or by oral statements from witnesses, as appropriate.

- All witnesses may be questioned by the Headteacher/Chair/*senior officer*, the employee or his/her representative, any governor, and the representative of the Authority (if present) immediately following their submission to the meeting. The Investigating Officer and the employee may be similarly questioned. At the end of the questioning, witnesses may be recalled - but only to clarify evidence previously given, not to introduce any new material. If recall is necessary, both the employee and the panel must return even if only one is concerned with the point giving rise to doubt.

- The Headteacher/senior officers and the employee or his or her representative may sum up following the conclusion of statements. The employee will be given the opportunity to speak last. Neither summary may introduce any new material.

- The Headteacher or Chair may adjourn the meeting for further investigations before a decision is made.

- At the conclusion of the meeting, all those present except the panel, note taker and advisor should leave the room to allow them to deliberate in private.

- In coming to a conclusion on the facts of the case, the panel will need to decide "on the balance of probabilities" whether the employee concerned carried out the alleged misconduct (there is further information about this test

later on in the policy). Once a decision has been reached, the employee should be recalled to the meeting.

- The Headteacher/Chair should inform the employee of the decision and the right of appeal. In exceptional circumstances, it may not be possible to reach a decision on the day of the meeting. In this case, the employee should be recalled to the meeting and so advised. The Headteacher/Chair should explain the reasons and inform the employee when the decision is likely to be reached. This must be no later than two working days after the meeting.

Deliberation

- Witnesses will leave the room when they have finished giving evidence; they may not join the Panel for the deliberations. The panel may recall anyone to clarify evidence previously given, provided that the employee and their Companion are also in attendance when that evidence is given.

Outcomes

- At the end of the hearing, if it is considered that dismissal should take effect, the employee will be informed orally if possible and in any event the decision will be confirmed in writing within 5 working days.

- In the case of an appeal, the employee shall set out in writing the grounds for the appeal, to be lodged with the clerk to the governing body, within 5 working days of receipt of written confirmation of the dismissal.

Procedures for appeals

Appeals against a warning

If an employee wishes to lodge an Appeal following a disciplinary warning, they must write to the Headteacher (*For Headteacher disciplinary matters the Headteacher must write to the Clerk to the Governing Body*) within 5 working days of receiving written notification of the outcome.

In their letter requesting an Appeal, the employee should set out their reasons for Appeal.

Note taking

- There is a need to keep notes at Appeal meetings. The Chair of the Appeal Panel must ensure that a note taker has been arranged.

- The companion has a similar role to that in Disciplinary Meetings, and rules regarding breaks are the same as for Disciplinary meetings.

The procedure: Appeal against a warning

- The Chairperson will open the meeting, make introductions, share documentation and invite the employee to give their reasons for Appeal.

- The employee will then talk through their grounds for Appeal, and may call on witness statements, or other documents used in the original Disciplinary meeting.

- The aim of the meeting is to understand the employee's grounds for Appeal and to consider their reasons and any evidence that they bring to support this appeal.

- The Chair of the Appeal will invite the Headteacher *(Governor conducting the Headteacher disciplinary)* to the meeting to respond to the employee's appeal reasons. They will be present as a witness and will be asked questions by the Appeal panel and the employee, and their witness.

- The Chair will sum up at the end of the meeting. The Chair will then call for a brief adjournment to consider their decision.

Appeal against Dismissal

- If the employee wishes to lodge an Appeal following Dismissal, they must write to the Headteacher within 5 working days of receiving written notification of the outcome.
  If a Headteacher wishes to lodge an Appeal following Dismissal, they must write to the Chair of Governors (via the Clerk) within 5 working days of receiving written notification of the outcome.

- In their letter requesting an Appeal, the employee should give their grounds for appeal. The Appeal will take the format of a re-hearing of the dismissal.

Procedure to be followed at the Appeal against Dismissal

The Chairperson of the Appeal will:

- Open the Appeal meeting and ensure everyone is introduced.
- Briefly explain the purpose of the meeting and ask any particular questions.
- Confirm the documentation to be used at this meeting, and where there are discrepancies, ensure that time is given to allow for papers to be copied and read. There should be no new information presented at an Appeal Meeting than at the original meeting, but, where new information has come to light, everyone should be given time to consider the information.

The Chairperson of the Appeal Panel will decide on which order to invite the parties to present their arguments.

Both the employee and the employer will have the opportunity to state their arguments, and to bring forward witnesses, who will be questioned.

There will then be an opportunity for summing up, by both the Dismissal Chairperson and the employee (or their Companion).

Deliberation process

- The Chairperson of the Appeal will ask the employee and their Companion to leave the room while the Panel deliberates. The note taker will remain in the room to record the deliberations and the rationale for the outcome.

- Ideally, the panel should reach a consensus. However, if no consensus is possible, the panel may apply a two-thirds majority decision, provided that the two-thirds majority includes the Chairperson of the Appeal.

Notification
Ideally, the employee will be invited back into the room and the decision of the panel will be shared with them. This will be confirmed in writing to them. Where it is not possible to inform the employee of the outcome in person, they must be informed in writing within 5 working days.

The Decision-Making Process

The Balance of Probabilities
In coming to a conclusion on the facts of the case, the panel will need to decide 'on the balance of probabilities' whether the employee concerned carried out the alleged misconduct. This is not as stringent a test as in a criminal court of law where the test of 'beyond reasonable doubt' applies, but it nevertheless requires the panel to come to a conclusion based on evidence rather than 'gut feeling'.

In most meetings, evidence is put forward that is in some ways contradictory, and the panel will need to come to a conclusion as to where the truth lies. To do so, the panel will need to use their common sense and management experience to balance the evidence for and the evidence against. The panel should consider how likely it is that the act or omission happened, e.g. how unusual would it be for the alleged act to have occurred? Does any of the evidence sound more far-fetched than the rest? If two people are directly contradicting one another, who is more likely to be telling the truth and is there any corroborating evidence that adds weight to one or other of them?

Generally, the less likely the act or omission is to have occurred, the greater the burden of proof required. The panel will need to identify evidence that corroborates one side or the other. As part of their deliberations, the panel will need to consider each allegation in turn. These formal deliberations should be recorded by the note taker.

The Test of Reasonableness
Decision-making panels should consider the following questions:
- How thorough was the Investigation? Has there been as much investigation as is reasonable in the circumstances?
- Have the requirements of the disciplinary procedure been properly complied with up to this point, including advance notice to the employee of the matter(s) to be considered at this meeting?
- Has there been sufficient regard paid to any explanation put forward by or on behalf of the employee?
- Is there a genuine belief that the employee committed the misconduct?
- Are there reasonable grounds for sustaining that belief on the balance of probabilities?
- Is the misconduct sufficiently serious to justify the disciplinary decision being contemplated?
- Has there been regard paid to any mitigating circumstances put forward by, or on behalf of, the employee?

- Is the decision within the band of reasonable responses of a reasonable employer in the circumstances?
- What was the type, degree and frequency of the misconduct?
- What is the employee's previous record?
- What were the consequences of the misconduct?

Making Findings of Fact
If the panel finds it cannot come to a judgement about where the truth lies because it does not have sufficient evidence to do so, it will be unable to make a finding that the act or omission did occur as alleged. In this case, the panel would not be able to take any disciplinary action, whatever panel members' private view about whether the employee was guilty or not.

If the panel concludes that the alleged misconduct did occur in full or in part, it should record its findings and then move on to considering the appropriate disciplinary penalty.

Imposing Disciplinary Penalties
In many cases, the employee concerned will have offered an explanation about what happened and why. In some cases, the misconduct may be admitted and the only evidence put forward by the employee relates to mitigating circumstances. Based on the facts the panel has found, it will then need to consider any mitigation put forward by the employee to decide what penalty should apply. The panel will also need to take account of the employee's previous disciplinary record in deciding what level of action is appropriate.

The panel is not able to impose a penalty higher than the sanctions outlined to the employee as "potential sanctions" in their letter inviting them to the disciplinary meeting.
Having considered mitigation, the panel also needs to consider the seriousness of the misconduct in the context of the employee's previous record and the circumstances of the case. The HR Management Advisor should be able to advise on any precedents within other schools to ensure the decision is consistent with them.

The panel should work out with the advisor the exact wording of the findings and the penalty. The panel will also need to decide how long any disciplinary penalty should remain 'live' and any arrangements that may need to be put in place to assist the employee to improve and/or be monitored.

At this stage, it may be useful to run through the following checklist to satisfy panel members that they have reached a fair decision:

Summary of Key Points

- Focus on the evidence and ensure findings can be substantiated by the evidence
- Approach decision-making as a two-stage process: Decide whether the allegations are substantiated before deciding on the appropriate penalty
- The panel may only decide whether to take disciplinary action and, if so, the level of disciplinary action that is appropriate
- The panel may not impose any other penalties such as redeployment, stoppage of pay, demotion

- The panel cannot impose a disciplinary penalty at a higher level than that set for the meeting.

In all cases, the Headteacher/Chair of the panel, shall confirm the determination in writing within 5 working days of the meeting.