



Disciplinary Policy

Document provenance

This policy was approved by Trustees as follows –

Committee: Personnel Committee

Date of Approval: June 2020

Review Date: June 2022

Executive Leadership Team (ELT) Owner:

Deputy Chief Executive Officer

Unless there are legislative or regulatory changes in the interim, this policy will be reviewed every two years. Should no substantive changes be required at that point, the policy will move to the next review cycle.

Policy purpose and summary

This policy outlines the process and procedure for disciplinary action for all E-ACT staff.

This policy will be interpreted and applied in accordance with the employers' duty to respect the rights of employees under the Human Rights Act¹, particularly the rights to freedom of speech, privacy, freedom of religion and belief and the right to freedom of association.

Summary of changes at last review:

- Support staff changed to professional services staff throughout the policy.
- Scheme of Authority changed to Scheme of Delegation throughout the policy
- Removed reference to Director of Corporate Services.
- Inserted correct title of Equality and Diversity Policy rather than Diversity and Equality Policy
- 11.6 updated to reflect new roles and responsibilities, including that of the People and Organisational Development Director (PODD)
- 17.1 amended so that if an employee chooses to have a companion at a hearing, they inform Disciplinary Hearing Officer or the member of the People Team organising the meeting who their chosen companion is, in good time before the hearing
- Confirmed in section 20.4 and 23.3 that decision to suspend and decision to dismiss must be signed off by the Deputy CEO.

Related documents:

- Grievance Policy²
- Code of Conduct³
- Teacher Appraisal Policy⁴
- Equality and Diversity Policy⁵

¹ <http://www.legislation.gov.uk/ukpga/1998/42/contents>

² <https://insight.e-act.org.uk/policies/grievance-policy-and-procedure>

³ <https://insight.e-act.org.uk/policies/code-conduct>

⁴ <https://insight.e-act.org.uk/policies/teacher-appraisal-policy>

⁵ <https://insight.e-act.org.uk/policies/equality-and-diversity-policy-2018-2020>

Disciplinary Policy

1. Introduction

- 1.1. E-ACT expects all its employees to recognise their obligations to their Academy, the public, pupils and other employees and to conduct themselves properly at all times and in accordance with the Employee Code of Conduct and all other policies and procedures. Appendix 1 gives examples of misconduct and gross misconduct but these lists are not to be treated as exhaustive.
- 1.2. The procedure is designed to reflect the individual's right to natural justice, the rights identified in the Human Rights Act⁶, and the law as set out in Employment Acts and regulations.
- 1.3. A member of E-ACT's procured Human Resource (HR) service must attend any hearings which may lead to dismissal. This will ensure that advice is available on procedural issues and any employment legislation matters.
- 1.4. Where allegations are made against an employee, he/she should be informed of his/her right to be represented at all meetings and related hearings by a recognised Trade Union representative or other Academy employee.
- 1.5. This procedure does not form part of any employee's contract of employment and it may be amended at any time following consultation. We may also vary application of this procedure, including any time scales for action, as appropriate.

2. Purpose

- 2.1. To achieve excellence in education for all and good employee relations this procedure aims to:
 - Improve conduct primarily by advice and correction rather than by disciplinary measures; and
 - Provide a fair method of dealing with alleged breaches in standards of conduct.

3. Governance

- 3.1. The Board of Trustees are responsible for setting out disciplinary rules and procedures for staff. However, they may delegate these matters (including the power to suspend any person) to either:
 - A committee of the Board
 - The Chief Executive Officer (CEO)
 - A National Director
 - A Regional Director
 - The Headteacher
- 3.2. Therefore, where this procedure refers to the Board of Trustees representative this can be any one of the above.

⁶ <http://www.legislation.gov.uk/ukpga/1998/42/contents>

4. Scope

- 4.1. This procedure applies to all employees (teaching and professional services staff) employed within E-ACT Academies, Regional Teams and the National Team who either have a permanent contract of employment or have more than six months' continuous service. It does not apply to employees' subject to probation, who are subject to separate procedures.

5. Equal Opportunities

- 5.1. The Disciplinary Policy must always be applied fairly and in accordance with employment law and E-ACT's Equality and Diversity Policy.

6. Responsibilities

- 6.1. The Board of Trustees are responsible for maintaining fair, consistent, and objective procedures for matters relating to staff discipline in each Academy.
- 6.2. The Chief Executive Officer (CEO) is responsible for implementation of policies at national level, Operations and Education Directors at regional level and Headteachers at Academy level.
- 6.3. Employees have responsibility to:
 - Conduct themselves appropriately;
 - Obey the reasonable directions of the employer;
 - Behave in a trustworthy manner at all times;
 - Take care over the work assigned to them;
 - Strive to maintain good employment relationships.
- 6.4. As recognisable figures in the local community the behaviour and conduct of staff outside of work can impact on their employment. Therefore, conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.
- 6.5. Employees are expected to observe all reasonable rules, policies and procedures which cover the following, amongst other things:
 - Absence procedure;
 - Timekeeping;
 - Standard of dress;
 - Health and Safety;
 - Use of facilities and equipment;
 - Anti-discrimination;
 - Anti-bullying and harassment.
- 6.6. Management and employee representatives who may be involved in disciplinary matters should be competent for the task. They should be familiar with the provisions of the disciplinary procedure and know how to conduct or represent at disciplinary hearings. Appropriate training should be made available to managers where required.

7. Confidentiality

- 7.1. It is the aim of the Trust to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 7.2. Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 7.3. Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless there are exceptional circumstances whereby the identity of a witness should remain anonymous.

8. Timing

- 8.1. Disciplinary matters should normally be conducted within the timescales laid down in the policy. However, if there is a valid reason to do so, timescales can be varied. If this is initiated by management, the employee should be given an explanation and informed when a response or meeting can be expected.
- 8.2. All efforts should be made by employees to attend meetings that constitute part of this policy.
- 8.3. When there are valid reasons to reschedule meetings then these should be rearranged without undue delay.

9. Definitions

- 9.1. Misconduct is where an employee breaks specific rules about behaviour or conduct. Gross misconduct is a term used to describe misconduct which is so serious it may destroy the employment contract between the employer and the employee and make further working relationships and trust impossible.

10. Informal Action

- 10.1. Less serious breaches of conduct (i.e. first occurrences of some types of misconduct) can be dealt with informally by meeting with and discussing the matter with the employee.
- 10.2. This involves drawing the employee's attention to the unsatisfactory conduct, explaining what conduct is required, and setting a clear and reasonable timescale for the employee's conduct/behaviour to improve. Where appropriate, a note of any such informal discussions may be placed on the employee's personnel file. In some cases, an informal verbal warning or instruction may be given, which will not form part of the disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 10.3. Consideration should be given to any difficulties which an employee may be facing and a genuine attempt should be made to help the employee to overcome them. Where considered appropriate, managers should seek Occupational Health advice when managing staff who may be suffering from mental illness or alcohol or substance abuse, and in any event should ensure that the relevant E-ACT policy such as Sickness Absence Management

or Alcohol and Substance Misuse is applied.

- 10.4. In some cases, it may be beneficial for the employee to contact the Employee Assistance Programme for advice and guidance.

11. Disciplinary Sanctions

- 11.1. The following formal stages of disciplinary action can be taken for breaches of conduct (see Appendix 1).
- 11.2. Warnings are progressive from First to Final except for:
- Cases of gross misconduct (which if substantiated through the disciplinary process may result in summary dismissal with no entitlement to statutory notice).
 - Cases which are less serious than gross misconduct but warrant a Final Warning being issued regardless of prior formal warnings.

Disciplinary Action	Authority to issue	Duration of warning on personal file
Oral warning	As delegated by Board of Trustees (please refer to E-ACT's Scheme of Delegation)	3 months
First written warning	As delegated by Board of Trustees (please refer to E-ACT's Scheme of Delegation)	6 months
Final written warning	As delegated by Board of Trustees (please refer to E-ACT's Scheme of Delegation)	12-18 months ⁷
Dismissal	As delegated by Board of Trustees (please refer to E-ACT's Scheme of Delegation)	Permanent

- 11.3. Further misconduct may occur during the term of a first written warning. Where this results in a formal hearing and a final written warning is issued, the duration of the final written warning will supersede that of the first written warning.

- 11.4. After the active period, the warning will remain permanently on the employee's personnel

⁷ A final written warning will remain on the employee's file for a minimum of 12 months. Depending on the circumstances of the case the disciplinary panel may determine that the warning may remain on file for up to 18 months.

file but will be disregarded in deciding the outcome of future disciplinary proceedings.

- 11.5. An employee with a final written warning on file who is alleged to have committed a further occurrence of misconduct must be treated as if the allegation was of gross misconduct. This is because if the allegation is substantiated, the employee will be dismissed. Therefore, letters to the employee should include the warning of dismissal (as for allegations of gross misconduct).
- 11.6. Where a member of staff is dismissed or they resigned during a disciplinary process, misconduct cases that relate to the safety of children and young people will be referred to the Disclosure and Barring Service (DBS) where the thresholds for referral are met. This will be dealt with by the Regional Education Director (RED) and the matter must be referred to them immediately, who will in turn notify the National E-ACT People and Organisational Development Director (PODD) with strategic responsibility for HR. All other cases of teacher misconduct resulting in dismissal will be referred to the Teaching Regulation Agency (TRA) by the National Director of Education (NDE) and the matter must be referred to them immediately.

12. The Investigating Officer

- 12.1. The Disciplinary Hearing decision maker (please refer to E-ACT's Scheme of Delegation) is responsible for appointing an Investigating Officer who must be competent to undertake the role. The Investigating Officer (IO) must be an employee of senior status, or of independent status for matters relation to senior national employees (HR national partner) to the employee whose misconduct is being investigated. The Investigating Officer must have had no prior involvement in, or knowledge of, the incident being investigated.
- 12.2. The investigation process must be completed as quickly as possible and should usually take no more than 15 working days, ensuring that all parties have the opportunity to present their version of events.
- 12.3. The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations made against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents and other information.

13. Pre-Investigation Stage or Management Investigation

- 13.1. In certain cases, it will be necessary to gather information regarding complaints, incidents and allegations before the start of a disciplinary investigation.
- 13.2. This type of information gathering is only appropriate for prima-facie serious allegations which are particularly sensitive or complex to determine whether:
 - There is any substance to the complaint and a full disciplinary investigation is appropriate; and if
 - The allegations warrant suspension of the employee.

- 13.3. This is not a formal stage of the procedure and would not be considered within the stipulated timescales of the procedure but must be carried out as swiftly as possible.
- 13.4. Any information uncovered at this stage would be provided to the Investigating Officer as appropriate.

14. Timescales for Investigations

- 14.1. All allegations and complaints against employees must be investigated without delay (particularly in cases of potential gross misconduct). The person delegated to appoint an Investigating Officer (where required) must ensure that the Investigating Officer (IO) has reasonable time off from normal duties to complete the investigation promptly.
- 14.2. As a guide, from the time the Investigating Officer begins their investigation, the investigation report should be completed within 15 working days⁸ for allegations of misconduct and other cases where the fact finding is relatively straightforward. For allegations of gross misconduct and more complex cases, the investigation process should take no longer than 20 working days. In very complex cases or exceptional circumstances, a reasonable timescale will be agreed by E-ACT.
- 14.3. On completing the investigation, the Investigating Officer will recommend to the delegated decision maker (please refer to E-ACT's Scheme of Delegation) whether a formal disciplinary hearing is necessary and, if so, on what basis.

15. Interviewing witnesses

- 15.1. It may be necessary to interview witnesses who may have information that is relevant to the allegations. A record of the meeting will be made and the witness will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record. The Trust recognises that some employees may find this difficult or worrying, however all employees are expected to fully participate in any such investigation.

16. Interviewing the employee

- 16.1. Investigation meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. Employees are encouraged to a trade union representative or work colleague to the investigation meeting if they are available (please see section 17 of this Policy). A record of the meeting will be made and the employee will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record.
- 16.2. Employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents or information and attending investigative interviews if required. As each investigation will vary in length and complexity it will be completed in as short a time frame as possible.

⁸Working days refers to actual Academy days for term-time only staff.

17. Role of Companion at Meetings and Hearings

- 17.1. An employee may bring a companion to all meetings under this policy. The companion may be either a trade union representative or a work colleague. The employee must inform the Disciplinary Hearing Officer or the member of the People Team organising the meeting who their chosen companion is, in good time before the hearing.
- 17.2. Should the employee choose to bring a companion to the hearing they will be responsible for making these arrangements and for providing their companion with any paperwork that they require for the hearing.
- 17.3. Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.
- 17.4. If the choice of companion is not available at the time a meeting is scheduled, the employee may propose an alternative time for the meeting to take place and so long as the alternative time is reasonable and within five working days after the original scheduled date, we will postpone the meeting. If the employee's chosen companion will not be available for more than five working days afterwards, we may ask the employee to choose someone else.
- 17.5. A companion may make representations, ask questions, and sum up the employee's position, but will not be allowed to answer questions on the employee's behalf. The employee may confer privately with their companion at any time during a meeting.
- 17.6. We may, in exceptional circumstances and at our discretion, allow the employee to bring a companion who is not a colleague or trade union representative (for example, a member of family). When this is the case the companion cannot act in a representative capacity as described above.
- 17.7. Reasonable adjustments will be made where required for the employee, for example if they have difficulty understanding English a translator will be provided.

18. Criminal charges

- 18.1. Where conduct is the subject of a criminal investigation, arrest, charge, or conviction the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend upon the circumstances. Employees should inform their Headteacher (academy staff), Regional Operations Director (regional staff), National Director (national staff) immediately if they are subject to a police investigation, arrest, are subject to any charge or conviction, or any occurrence that may disqualify them from providing childcare under the Childcare (Disqualification) Regulations 2009⁹. Failure to immediately notify their line manager may result in disciplinary action.
- 18.2. The Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where employees are unable or have been advised not to attend an

⁹ <http://www.legislation.gov.uk/uksi/2009/1547/contents/made>

investigation meeting or disciplinary hearing or say anything about a pending criminal matter, a decision may have to be made based on the available evidence.

- 18.3. A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.

19. Child Protection

- 19.1. If allegations are made against staff which involve child protection issues, the Trust's Child Protection Procedure must be followed irrespective of how the allegation arises. Employees may be suspended on full pay pending the outcome of the Child Protection procedure; however, suspension should not be the default option.
- 19.2. If the relevant child protection agencies decide not to pursue action against the employee, the matter will be referred back to the Academy for consideration under the appropriate procedure. The fact that external agencies have not acted should not be taken as an indication of the employee's innocence or guilt.
- 19.3. All employees within E-ACT will operate within statutory guidance when handling cases of child protection and safeguarding.
- 19.4. Where a criminal investigation relates to allegations of abuse of children or young people the Trust will co-operate and share information about the employee with other relevant agencies as appropriate.

20. Suspension

- 20.1. The suspension of a member of staff is a neutral act and should only be used to enable a matter to be investigated, or in the interests of protecting children and/or staff while a matter is investigated pending any further action that may be necessary. Suspensions are a precautionary measure and should not be regarded as prejudging the matter. If at any stage during or at the end of the investigation, or at any stage of the disciplinary procedure, it is considered that this suspension should be lifted by the person with delegated authority to carry out the suspension at the relevant level, the employee will be informed immediately.
- 20.2. An employee may be suspended on full pay when an act of gross misconduct is either suspected or alleged to have been committed or for "other good and urgent cause", which is normally taken as when the employee is suspected of, or has been arrested for, doing something which would render him or her unsuitable to remain in their employed position. The period of suspension should be as brief as possible and should be kept under review. Please refer to E-ACT's Scheme of Delegation for the person(s) with delegated authority to suspend.
- 20.3. Where the power of suspension has not been delegated to the Headteacher, the Headteacher or his/her nominee can send a member of staff home pending ratification through the suspension process led by the People and Organisational Development Director (PODD) and the Deputy Chief Executive Officer (DCEO).

- 20.4. Where suspension occurs, this should be confirmed in writing giving broad details of the allegation. In all cases E-ACT's procured HR provider must be involved prior to the suspension being made in order for full advice to be provided, and the Deputy Chief Executive Officer (DCEO) and People and Organisational Development Director (PODD who has strategic responsibility for HR) must be informed within the same working day. The DCEO will sign off any recommendation to suspend before the action is taken.
- 20.5. Suspension from duty is a 'working arrangement' whereby the employee must not enter any Academy building, regional or national site and consideration will be given to restricting contact with any employee without the express permission of the Headteacher and suspending IT access. A suspended employee must not contact pupils or their parents or anyone else with whom they would come into contact during the course of their duties. Failure to observe this requirement may render them liable to disciplinary action.
- 20.6. Alternatives to suspension, for example re-organisation of duties, work location, temporary redeployment to another role etc. will be explored where relevant, before a decision to suspend is made. The nature and severity of the allegations will need to be considered as will the employee's role within the Trust.
- 20.7. Where an employee is suspended and needs to contact witnesses to provide evidence at a hearing, then this may be achieved via their trade union representative or by a request to the Headteacher, Regional Director or Chief Executive Officer.

21. Disciplinary Hearings

- 21.1. Where the result of the investigation recommends that there are reasonable grounds to suggest misconduct or gross misconduct, a Disciplinary Hearing should be arranged as soon as possible but normally within four working weeks of completion of the investigation. Reasons for any delay in convening a Hearing must be clearly communicated to the employee.
- 21.2. The Investigating Officer's report and/or all relevant documentation should be sent to the employee with a letter specifying the date, time and place for the hearing giving no less than ten working days' notice. The letter must contain sufficient information on the alleged misconduct and its possible consequences. The letter should inform the employee of their right to be accompanied by a trade union representative or work colleague.

22. The Disciplinary Panel

- 22.1. As delegated by the Board of Trustees the person(s) hearing the disciplinary will write to the employee, giving details of the hearing, normally allowing 10 working days' notice. Please refer to E-ACT's Scheme of Delegation to see the appropriate disciplinary hearing delegations.
- 22.2. A representative from E-ACT's procured HR service **must** be present at any hearing where dismissal is a possibility.
- 22.3. For all meetings a note taker will attend to take minutes of the proceedings. For regional staff members and academy senior leadership this will be the Regional Co-ordinator, for academy staff members who are not senior leadership this will be an academy staff member.

It is the note taker's role to minute the significant points of the hearing and the decision of the panel but not to produce a verbatim record.

23. Conducting the Hearing

- 23.1. At the Hearing, all parties present will be given an opportunity to ask questions or challenge the reports/evidence submitted by all witnesses. The member of staff from the People Team or HR provider present will provide guidance on the format of the meeting which should take account of the advice set out in *Discipline and Grievances at Work: The ACAS Guide*¹⁰.
- 23.2. The employee and their representative should be informed of the decision of the Disciplinary Hearing as soon as possible (unless there is an adjournment to clarify any facts) and the person delegated to hear the allegation will confirm this in writing within five working days. The letter must also confirm the individual's right of appeal and of the right to be represented by a work colleague or trade union representative at any appeal hearing. The Director of People and Organisational Development (PODD) must be copied into the decision letter.
- 23.3. If the Chair of the panel recommends dismissal this must be signed off by the Deputy Chief Executive Officer (DCEO).

24. Appeals Procedure

- 24.1. Employees have the right of Appeal against any sanction.
- 24.2. The Appeals Panel is delegated by the Board of Trustees. Please refer to E-ACT's Scheme of Delegation for the appropriate delegated panel.
- 24.3. Appeals must be registered in writing stating full grounds of appeal to the decision maker of the disciplinary hearing within ten working days of the date of the letter confirming the disciplinary decision. Appeals received after this period will not be heard.
- 24.4. A quorum of the Appeals Panel will be three. The appeals hearing should be conducted taking into account advice set out in *Discipline and Grievances at Work: The ACAS Guide*.
- 24.5. Employees/appellants may present any new evidence which was unavailable at the time of submission of the appeal documentation at least five working days prior to the Appeal Hearing so that management has an opportunity to respond.
- 24.6. Appeals against the outcome of any disciplinary action may be considered by the Appeals Panel in relation to one or more of the following grounds:
 - i. The **PROCEDURE** – the grounds of appeal should detail how any procedural irregularities prejudiced the disciplinary decision.
 - ii. The **FACTS** – the grounds of appeal should detail how the facts do not support the decision or were misinterpreted or disregarded. They should also detail any new

¹⁰ <https://www.acas.org.uk/disciplinary-and-grievance-procedures>

- evidence to be considered.
- iii. The **DECISION** – the grounds of the appeal should state how the act(s) of misconduct did not justify the level of disciplinary action taken or the act was one of misconduct rather than gross misconduct.
- 24.7. Appeal panel hearings will be convened as soon as is reasonably practicable and the employee/appellant will be given no less than 10 working day notice of the time and place of the Appeal hearing. The People Lead from the People Team will write to the employee on behalf of the Appeals Committee, giving details of the appeal hearing and informing the employee of their right to be accompanied at the appeal hearing by a trade union representative or work colleague.
- 24.8. The appeals hearing should be conducted taking account of the advice set out in *Discipline and Grievances at Work: The ACAS Guide*.
- 24.9. The person(s) delegated by the Board of Trustees to hear the appeal **must** ensure that a representative from E-ACT's procured HR service is in attendance at the appeal to advise on procedural matters and matters of precedent. The HR consultant must be experienced in employment law and advise in accordance with E-ACT procedure
- 24.10. The Chair of the appeals panel will be nominated from amongst the appeals committee.
- 24.11. The Appeal will concentrate on the area(s) of dispute only and will not be a re-run of the whole disciplinary hearing. Accordingly, it is important that the employee is explicit about the grounds for appeal and must provide clear and specific reasons in writing. Such written notice of the Appeal must include reference to any new facts the employee/appellant intends to raise at the Appeal.
- 24.12. Both the employee raising the appeal and the Hearing Officer at the Disciplinary Hearing must be given the opportunity to present their case. The Appeals Panel have a responsibility to ascertain all of the relevant facts of the appeal and have a duty to examine in-depth all information provided on the grounds of the appeal. If the Appeals Committee do not feel that they have sufficient information available to them, the Chair of the Appeals Committee can take the decision to adjourn the appeals meeting, for up to 10 working days, in order for any relevant information to be ascertained.
- 24.13. Following the appeal hearing the Panel may:
- a. confirm the original decision
 - b. revoke the original decision; or
 - c. substitute a different penalty. Ordinarily a penalty will not be increased on appeal unless there is new information or evidence being available that requires further investigation.
- 24.14. The result of the Appeal and the reasons for the decision will normally be conveyed to the appellant immediately after the Hearing and will be confirmed in writing to the appellant and his/her representative within 5 working days by the Chair of the Appeals Panel. The decision will also be communicated to the Hearing Officer for information, and any lessons learned/future recommendations for improving ways of working will be

disseminated to the relevant persons for action.

24.15. The decision of the Appeals panel is final.

25. Monitoring

25.1. The Academy will monitor cases in line with its diversity and equality policy to ensure consistency and fairness in its application.

26. Special Situations

26.1. Sometimes an employee may raise a grievance during the course of a disciplinary case. Where this happens and depending on the circumstances, it may be appropriate to suspend the disciplinary procedure for a short period until the grievance can be considered. The employee, will however, have to raise the grievance in accordance with the E-ACT Grievance Policy and Procedure.

26.2. Depending on the nature of the grievance, the Academy may need to consider bringing in another manager to continue to hear the disciplinary case.

27. Discipline of Employee Representatives

27.1. Any disciplinary action being contemplated in respect of staff representatives of recognised trade unions within this procedure should not be instigated without notification in advance to the full-time official or nominee, of the appropriate trade union.

28. Review

28.1. This policy will be reviewed every two years in consultation with the recognised trade unions.

Appendix A: Examples of Gross Misconduct

The following are examples of gross misconduct but are not intended to be exhaustive:

- Prolonged unauthorised absence from work (at least 10 working days without contact);
- While purporting to be absent sick, working or engaging in activities, which are likely to be inconsistent with the reason for absence and/or which are unlikely to be conducive to recovery;
- Inappropriate conduct towards or contact with pupils, including failing to maintain professional boundaries;
- Serious acts of insubordination;
- Serious breaches of the Academy's Financial Regulations or Code of Conduct;
- Theft or misappropriation of, or failure to account for, or falsely claiming entitlement to, the property, assets or funds of the academy or its employees,
- Fighting or acts of violence at the workplace, serious threatening or abusive behaviour towards, pupils, parents or fellow employees;
- Criminal offences outside work (including fraudulent activities) which may affect the individual's employment suitability, the trust's reputation or relations with staff, pupils, parents or the public;
- Unauthorised removal and use of Academy property;
- Failure to report or record any serious matter which it is the employee's contractual duty either expressed or implied) to report;
- Falsification of documents likely to be of financial benefit to the employee or other persons e.g. time sheets, bonus/expense claims, qualifications etc.;
- Obtaining a job by lies or deception in the course of selection procedures;
- Making false claims under any of the Academy's policies and/or procedures;
- Discrimination/harassment against a pupil, employee or parent or member of staff, on the grounds of sex, trans-gender status, sexual orientation, religion or belief, marital status, civil partnership status, age, race, colour, nationality, national origins, ethnic origin or disability;
- Bullying;
- Being incapable of adequately performing duties as a result of the intake of alcohol or misuse of drugs;
- Serious breaches of the Academy's Health and Safety policies or practice;
- Serious contravention of the Academy and E-ACT Policy for IT Acceptable Use, including internet access;
- Acts or omissions that would expose the Academy or E-ACT to criticism or cause reputational damage;
- Disorderly or indecent conduct whether at the Academy or otherwise; and an act committed outside the place of work where the act has an adverse bearing on the employee's suitability for the job or which would bring the Academy into disrepute
- Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets, pupil's work, examinations or assessments;
- Deliberate damage to the buildings, fittings, property or equipment of the Trust, or the property of a colleague, contractor, pupil or member of the public;
- Serious failure to follow the Trust's child protection procedures;
- Causing loss, damage or injury through serious negligence;
- Unauthorised use or disclosure of confidential information or failure to ensure that

- confidential information in your possession is kept secure;
- Possession, use, supply or attempted supply of illegal drugs

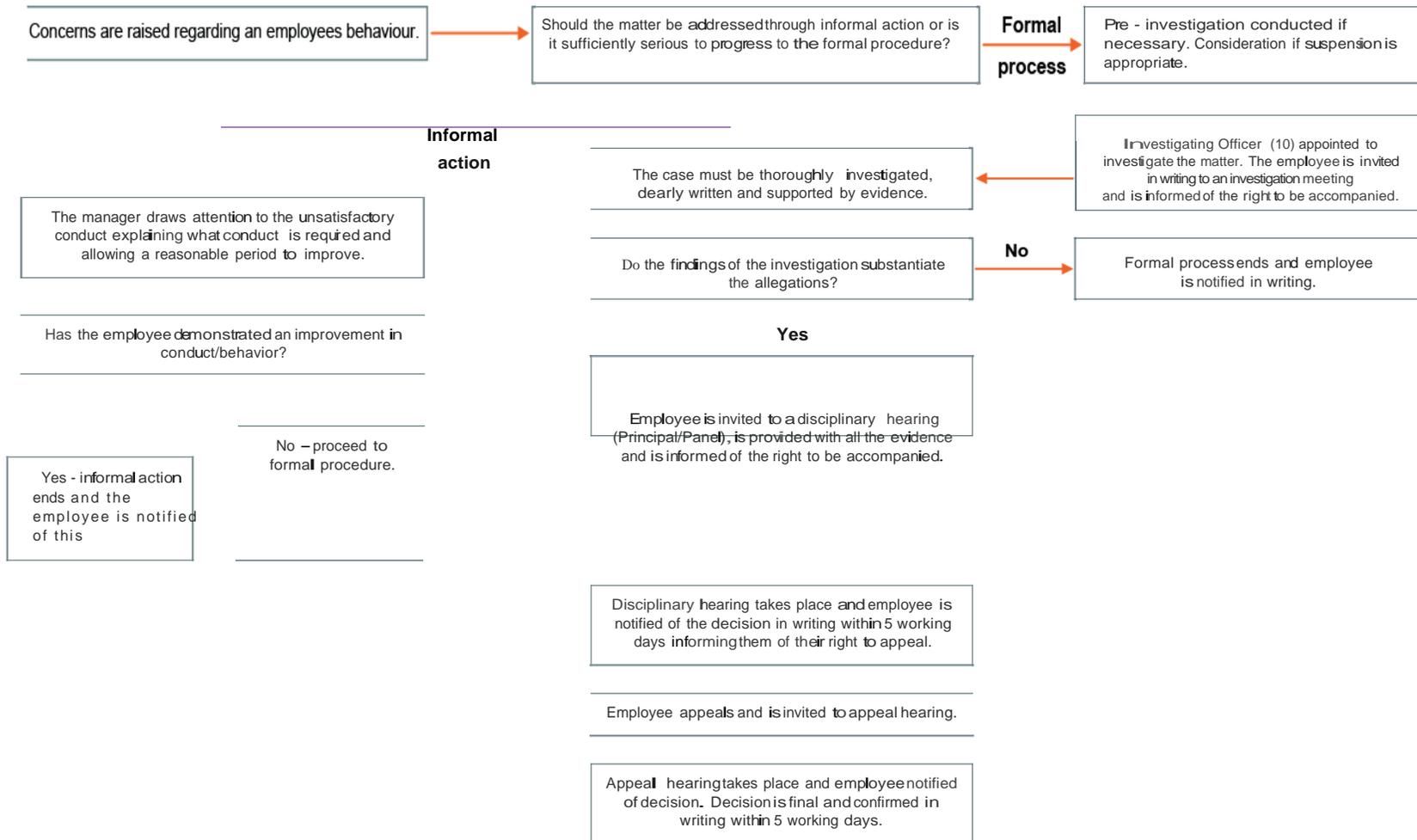
Appendix B: Examples of Misconduct

The following are examples of misconduct but are not intended to be exhaustive:

- Regular lateness for work;
- Regular failure to follow employment rules e.g. reporting absence;
- Refusal to obey a reasonable instruction of a manager;
- Negligence at work leading to loss, damage or wastage of academy or other property;
- Improper, disorderly or unacceptable conduct at, in or near the Academy;
- Willfully inadequate work performance (poor performance or lack of capability will normally be the subject of Capability Procedure);
- Private trading;
- Consistently poor standards of dress or hygiene.
- Unauthorised absence from work
- Negligence in the performance of duties.

In some instances, offences which would normally constitute gross misconduct may be considered as misconduct because of mitigating circumstances. Similarly, issues which would normally be treated as misconduct may, in certain circumstances, be considered so serious that they constitute gross misconduct.

Appendix C: Summary of Disciplinary Process



Appendix D: Conducting the Hearing

Agenda

1. The Decision maker (also the Chair) introduces him/herself and allows an opportunity for all those present to do so. The Chair ensures that all procedural steps have been adhered to and confirms the order of the agenda with all those present
2. The Chair checks that all parties have the relevant documents and identifies the specific allegation/complaint
3. The Chair asks the investigating officer/management to present the case (including questions of witnesses)
4. The Employee and/or representative may ask points of clarification from management or witnesses
5. Panel members may ask points of clarification from management or witnesses
6. Employee or representative will present his/her case (including questions to witnesses)
7. Management may ask points of clarification from the employee/representative (including witnesses)
8. The Chair may ask points of clarification from the employee/representative (including witnesses)
9. The Chair may wish to ask further questions of either side
10. Final statement by management
11. Final statement by employee/representative
12. The parties then withdraw to allow the decision maker to come to a decision. The HR adviser to the panel will remain. The outcome must be confirmed in writing with reasons and the right of appeal within 5 working days to the employee and his/her representative.

The Chair should ensure that there are sufficient breaks. If new information is presented during the course of the hearing, the Chair of the hearing may decide to adjourn to allow all parties to consider it. Either party may ask for an adjournment to take advice or to compose themselves if they find the proceedings overwhelming.

Minutes of the meeting should be taken by either the Regional Co-ordinator or a person experienced in taking detailed and accurate minutes. These will be circulated to all parties and will be part of any documentation used as part of an appeal.

Time should be taken to make a decision; an HR advisor will be present to advise the Chair about process and the options available to the panel.

The employee has the right to be accompanied by their trade union representative or a work colleague and an HR adviser may support management. In cases of gross misconduct, a representative from the procured E-ACT HR provider will be present to advise the Chair.

Appendix E: The Appeal

The agenda for an appeal hearing will follow the same format as outlined in appendix D except the appellant will be asked to state their case first.

The Chair of the panel for the first hearing will respond by addressing the grounds of appeal and explaining the rationale behind the decision of the panel. He/she must be supported by a Browne Jacobson HR adviser and may request that it is the same person who advised the first hearing.

The Appeal panel may also ask the person who presented the management case in the first hearing to appear as a witness.

The Appeal panel will be advised by an HR adviser from E-ACT's procured service, and the hearing must be minuted.

All parties should be given the documents presented in the first hearing, along with a copy of the minutes from the first hearing, a copy of the outcome letter from the Chair of the first panel and a copy of the letter of appeal from the employee.

The decision of the appeals panel is final and the outcome communicated in writing within five working days by the Chair of the appeal panel to both the appellant and the Chair of the original hearing.