



DISCIPLINARY POLICY

Version control	
Aspirations Disciplinary Policy [2019-09-01]	Update to align with revised job titles and changed governance arrangements.
AAT Disciplinary Policy 2018-12-01(1)	Incorporates minor updates to reflect changes in governance structure and job titles and re-ordering of some text for ease of navigation through the document. Some other changes have been made for clarification purposes but no change has been made that is significant in terms of procedural expectations/requirements.
AAT Disciplinary Policy 2016-09-01	This Policy was subject to consultation with the recognised trade unions but was not jointly agreed. Despite the absence of joint agreement about the Policy, The Trust implemented the Policy with effect from 1 September 2016.
Earlier version control details are shown on "consultation version 2015-12-21" available from the Trust's Director of HR.	

Date of next review:	September 2021	Owner:	Director of HR and Compliance
Type of policy:	Network	Approving Body:	Board

1. Introduction

- 1.1 The Aspirations Academies Trust (Aspirations/the Trust) expects all its employees to recognise their obligations to the organisation, fellow employees, pupils and the public and to conduct themselves properly at all times and in accordance with relevant codes of conduct¹. Appendix 1 gives examples of misconduct and gross misconduct but these lists are not to be treated as exhaustive.

2. Purpose

- 2.1 In order to support in achieving/maintaining high quality and effective education and good employee relations this policy aims to:
- Facilitate good standards of conduct primarily by advice and correction rather than by disciplinary measures
 - Provide a fair method of dealing with alleged breaches in standards of conduct

3. Scope

- 3.1 The Disciplinary Policy applies to all employees (teaching and support staff) employed by Aspirations. However, procedural elements do not necessarily apply to employees subject to probation where it may be more appropriate to deal with disciplinary matters in accordance with procedures set out in the Probation Policy.

- 3.2 **Adjustments to the Policy in certain circumstances:** The Policy is generally written with a perspective of operations within an Academy where disciplinary process is contemplated in respect of an employee other than the Principal. Therefore adjustments would apply to the reading of the Policy in certain circumstances, most particularly as set out in 3.3 and 3.4.

- 3.3 **Staff reporting other than within an academy:** For disciplinary matters in respect of an employee of the Trust who does not report within an Academy, terminology used in the Policy such as “the Academy” should be read as referring to the part of the Trust’s organisational structure the employee reports within (e.g. “the district team” or “the central management team”). Similarly, where reference is made in the Policy of responsibilities *the Principal* would hold in terms of disciplinary process within an academy, generally this should be read as:

- the *Regional CEO* for disciplinary process relating to staff engaged within their district team
- the *Managing Director* for disciplinary process relating to staff engaged within the central management team
- the *Chair of the Trust Board* for disciplinary process relating to the Managing Director or Deputy Managing Director

¹ This includes codes of conduct that are issued for general application by the Trust or that are specific to an employee’s workplace (e.g. a codes of conduct issued by the academy/establishment to which the employee is appointed) or are issued by external bodies in respect of the role undertaken by the employee (such as the Teachers Standards in respect of teaching staff).

- 3.4 **Allegations against an academy principal or regional CEO:** Where allegations of misconduct involve an academy principal or regional CEO, the Managing Director shall be informed and will decide the person to undertake the role of Commissioning Officer (as explained in 11.1.1 and elsewhere within the Policy). Depending on circumstances, this might be the Regional CEO, the Deputy Managing Director or other senior manager of the Trust. Where suspension of an academy principal has to be considered in accordance with section 10, this would be subject to the authorisation of the Managing Director.

4. Equal Opportunities

- 4.1 Action under this policy must always be applied fairly and in accordance with employment law and the Aspirations Equal Opportunities Policy.

5. Responsibilities

- 5.1 The Aspirations Board is responsible for maintaining fair, consistent and objective procedures for matters relating to staff disciplinary across all areas of the Trust, including its academies. Accordingly it shall arrange for the Disciplinary Policy to be reviewed periodically, consulting as appropriate, including with unions in accordance with the Aspirations Trade Union Recognition Agreement.
- 5.2 Within each academy, the Principal, in conjunction with the Regional CEO, has overall responsibility for the internal organisation, control and management of matters concerning the implementation of disciplinary procedures. Managers will have responsibilities delegated to them by the Principal that are consistent with their job roles for matters concerning the application of disciplinary procedures.
- 5.3 In parts of the Trust's organisational structure other than academies, the Managing Director has overall responsibility for the internal organisation, control and management of matters concerning the implementation of disciplinary procedures. Managers will have responsibilities delegated to them by the Managing Director that are consistent with their job roles for matters concerning the application of disciplinary procedures (e.g. a Regional CEO would hold responsibility for staff reporting within their district team).

6. Timing

- 6.1 Disciplinary matters should normally be conducted within the timescales laid down in the procedure. 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.
- 6.2 All efforts should be made by employees to attend meetings that constitute part of this procedure. When there are valid reasons to reschedule meetings then these should be rearranged without undue delay.

7 Pre-Investigation review

7.1 In certain cases it will be appropriate to gather information regarding complaints, incidents and allegations before deciding to initiate a disciplinary investigation.

7.2 This may, for example, be appropriate for considering:

- If the matter warrants a full disciplinary investigation or, alternatively, it would be appropriate to make an early informal intervention in accordance with section 8
- If the allegations warrant suspension of the employee pending a formal disciplinary investigation
- If the matter would more appropriately be referred to external agencies in the first instance, prior to initiating an investigation. This would generally be the case for Safeguarding/Child Protection issues as set out in section 9.

7.3 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 speedily as possible.

7.4 Where this stage of the process leads to a decision to instigate a formal disciplinary investigation, any information obtained should be provided to the Investigating Officer.

8. Informal Action

8.1 Less serious breaches of conduct (e.g. first occurrences of some types of misconduct) can often be dealt with informally.

8.2 This would normally involve meeting with the employee, notifying her/him of the conduct considered unsatisfactory, explaining expectations, and cautioning about the potential consequences of further conduct considered to be unsatisfactory. To avoid possible misunderstanding, the term “warning”² should not be used in describing the status of the notification given in accordance with paragraph 8.2.

8.3 Consideration should be given to any difficulties that an employee may be facing and a genuine attempt should be made to help the employee to overcome them. Where there is reason to believe an employee’s conduct may be affected by ill-health or alcohol or substance abuse, referral to Occupational Health should be considered.

9. Safeguarding and Child Protection

9.1 If allegations are made against staff that involve child protection issues, the Safeguarding and Child Protection Policy must be followed irrespective of how the allegations arise. Subject to section 10, employees may be suspended on full pay pending the outcome of relevant procedures under the Safeguarding and Child Protection Policy, however suspension should generally only be determined after the Local Authority Designated Officer has been consulted. If the relevant safeguarding and child protection agencies decide not to pursue action against the employee, the matter will be referred back to the academy for consideration which may involve application of the Disciplinary Policy.

9.2 For matters that need to be considered with reference to the Safeguarding and Child Protection Policy, proceedings in accordance with the Disciplinary Policy will begin only after the matter is referred back to the academy (with the possible exception of suspension which may be determined as an appropriate measure in consultation with

² The term “warning” is more appropriately reserved for formal sanctions that can only be issued as an outcome of a disciplinary hearing (see section 12).

relevant outside agencies, most particularly the LADO). In circumstances where a matter is referred back to academy, at the very least an assessment must be made with reference to section 7 to consider appropriate next steps. The fact that external agencies have not taken action should not by itself be taken as reason to assume there is no concern to investigate in accordance with the Disciplinary Policy.

10 Suspension

- 10.1 Under the authority of the Principal 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 otherwise subject to investigation concerning, something which would render him or her unsuitable to remain in school. The period of suspension should be as brief as possible and should be kept under review.
- 10.2 Prior to determining a suspension, potential alternatives to suspension should also be strongly considered and suspensions should be kept under regular and periodic review with a view to avoiding them lasting longer than appropriate.
- 10.3 For suspensions associated with allegations of misconduct relating to safeguarding/child protection matters, also refer to section 9.
- 10.4 If necessary, a senior manager can instruct a staff member to leave the academy premises pending ratification by the Principal (or person to whom the Principal has delegated authority to on the matter) which should be obtained promptly (normally within 24 hours).
- 10.5 Where suspension occurs, this should be subsequently confirmed in writing giving broad details of the allegation. In all cases the Regional CEO and the Aspirations Director of HR and Compliance must be informed.
- 10.6 Suspension does not infer any finding of guilt against the employee. Suspensions are a precautionary measure and should not be regarded as prejudging the matter or in any way inferring a finding of guilt against the employee. If at any stage during or at the end of the investigation, or at any subsequent stage of the disciplinary procedure, it is considered that the suspension should be lifted, the employee should be informed with minimum delay.
- 10.7 Suspension from duty is an arrangement whereby the employee must not enter any of the Trust's premises without the express permission of the Principal or person to whom the Principal has delegated authority on the matter. A suspended employee should not communicate about matters related to their suspension with other staff or pupils or pupils' parents or anyone else with whom they would come into contact during the course of their duties. This requirement would not apply in respect of anyone the employee would reasonably liaise with in order to seek advice or support (e.g. a trade union representative, counsellor or close family member). The suspension and wider disciplinary process is to be progressed on a strictly confidential basis and the employee is expected to comply with this requirement. It is also the employee's responsibility to advise anyone with whom they do communicate for advice/support that the matter is strictly confidential. Failure to observe the requirement of strict confidentiality may itself warrant disciplinary action.
- 10.8 Where an employee is suspended and needs to contact witnesses to provide evidence at a hearing, then this may be achieved via their union representative or an appropriate contact identified by the Principal.

11. Disciplinary Investigations

11.1 The Commissioning Manager and Investigating Officer

- 11.1.1 Normally, the Principal³ will take the role of *Commissioning Manager* and will appoint an *Investigating Officer*. However, in appropriate circumstances, the Policy does not prevent the Principal from delegating the role of Commissioning Manager to a member of SLT, similarly it does not preclude the Commissioning Manager from deciding to also undertake the role of Investigating Officer⁴. In circumstances where it would not be appropriate for the Principal to be involved in the process, the role of Commissioning Manager will be taken by the Regional CEO or by a senior manager of the Trust to whom the responsibility is delegated by the Managing Director.
- 11.1.2 Generally, the line manager of the employee subject to investigation will be appointed as Investigating Officer (with due consideration to 11.1.3). If this is impractical or inappropriate, another appropriate manager should be appointed as Investigating Officer. Potential alternatives to the line manager include a manager of equal or more senior status within the Academy, or a person external to the Academy determined in consultation with the Regional CEO or Managing Director, as appropriate.
- 11.1.3 The Investigating Officer will have experience and/or training in disciplinary investigations or have ready access to expert advice/guidance from a person who will in other respects remain independent of the disciplinary process (i.e. will not later be a member of a disciplinary or appeal panel). The Investigating Officer will also not be less senior within the management hierarchy of the Academy than the person(s) whose conduct is under investigation and will have no conflict of interest relating to the matter under investigation.
- 11.1.4 As further explained under 11.2, the Investigating Officer is responsible for conducting a thorough investigation and preparing a written report in a timely manner.

11.2 Timescales for Investigations

- 11.2.1 Allegations and complaints against employees should be investigated promptly (particularly in cases of potential gross misconduct)⁵. The Commissioning Manager should ensure the Investigating Officer is able to complete the investigation promptly and, where necessary, consider making alternative arrangements concerning their normal duties.
- 11.2.2 In all cases, investigations should be completed as soon as is reasonably practicable.

³ As explained in section 3, arrangements set out in the policy are generally as applicable for an academy. In applying the policy to other parts of the Trust's workforce, generally where the policy refers to "the Principal" the document should be read instead as referring to another appropriate manager (see 3.3).

⁴ However, depending on the nature of the case, if the Commissioning Manager has acted as Investigating Officer, it may be inappropriate for them to personally conduct a subsequent hearing as per 12.2.1 or be a member of disciplinary panel as per 12.2.2.

⁵ Notwithstanding the need to investigate as soon as appropriate, where a potential disciplinary matter concerns a child protection matter, the relevant protocols must be followed (e.g. in respect of policy for dealing with child protection allegations made against staff). Section 9 explains this further.

- 11.2.3 As a *guide*, from the time the Investigating Officer begins their investigation, the investigation report should be completed within 15 working days⁶ for cases where the fact finding is relatively straightforward. The timescale may inevitably be longer for more complex cases. Where the Investigating Officer assesses a longer timescale will be necessary the Commissioning Manager and the employee subject to the investigation should be notified accordingly. In cases where the duration of the investigation takes longer than 25 working days the Aspirations Director of HR and Compliance should be consulted.
- 11.2.4 On completing the investigation, the Investigating Officer will prepare a written report for the Commissioning Manager. Generally this should set out:
- Details of the matter(s) under investigation
 - The methodology of the investigation
 - A summary of the evidence collected (documentary evidence should be appended to the report or otherwise made accessible to the Commissioning Manager)
 - Findings/conclusions from the investigation
 - A recommendation about whether or not a formal disciplinary hearing should be arranged and, if so, on what basis (e.g. the specific disciplinary allegations to be considered at the hearing and whether these are considered as potential misconduct or potential gross misconduct).

12. Disciplinary Hearings

12.1 Where the investigation report concludes with a recommendation that there are reasonable grounds to proceed further with an allegation of misconduct or gross misconduct then, subject to the approval of the Commissioning Manager, a disciplinary hearing should be arranged as soon as possible. Normally this should be held within four working weeks of completion of the investigation. Reasons for any delay in convening a hearing must be communicated by the Commissioning Manager to all interested parties.

12.2 Composition of the Panel

12.2.1 Subject to the approval of the Principal, the Commissioning Manager can personally hear allegations of misconduct (i.e. *without* anyone else sitting with them to form a panel). If this is impractical or inappropriate, or where the allegations are of gross misconduct, or other misconduct which could result in the dismissal of the employee (i.e. they already have a final warning on file) a disciplinary panel will hear the case.

12.2.2 Disciplinary panels will usually comprise of the Commissioning Manager *and* one representative from Aspirations. Generally the Commissioning Manager will chair the panel.

12.2.3 Arrangements may be made by the Chair of the Panel for advisers to attend disciplinary hearings as appropriate (for example an HR adviser).

⁶ Working days refers to actual school days for term-time only staff.

12.3 Preparation for the Hearing

12.3.1 The Commissioning Manager will ensure that the Investigating Officer's report and all relevant documentation are sent to the employee with a letter that must:

- Specify the date, time and venue of the hearing (giving a minimum of **five working days' notice**⁷ or, *when a potential outcome of the hearing is dismissal, seven working days' notice*).
- Identify those to attend as panel members and to present the management case (and where applicable, those attending as an adviser).
- In conjunction with the enclosures contain clear information about the alleged misconduct (including list of allegations) and the potential sanctions in the event the allegations are found at the hearing to be proven. For example, if the allegations are considered to potentially be gross misconduct, this should be specified in the letter along with explanation that if gross misconduct is found to be proven this could lead to a decision to dismiss the employee.
- Inform the employee of their right to be accompanied by a trade union representative or fellow employee of the Trust.
- Ask the employee to confirm whether or not they will be attending the hearing.

12.3.2 If an employee's companion/representative cannot attend on the proposed date, the employee can suggest another date so long as it is reasonable⁸.

12.3.3 If an employee fails to attend a hearing without good reason, the hearing will normally proceed in his/her absence. Where a hearing has been rearranged on the basis of a request from the employee and the employee fails to attend on the newly arranged date, the panel will generally proceed with the hearing in the employee's absence unless there are exceptional circumstances. If the employee gives notification of being medically unfit to attend the hearing then it may be appropriate to adjourn the hearing, potentially for a limited period, normally not exceeding one month. Advice may be sought from Occupational Health about the fitness of the employee to attend a hearing and to understand and respond to the case against them. Where the sickness absence continues to the end of the established period of adjournment the disciplinary panel will consider whether to hold the disciplinary hearing in the employee's absence. If this is decided upon, the employee should be invited to send a representative to make his/her case at the hearing and also submit representations in writing.

⁷ For teaching staff "working days" will not be deemed to include days that are not within the academy's time. The same will apply in respect of support staff who have a term time based contract except in respect of any particular periods outside the academy's term time that are contractually part of their working year.

⁸ In determining the reasonableness of the employee's proposed date, the principles as set out in the ACAS Code of Practice on Disciplinary and Grievance Procedures shall be applied. Accordingly, if the meeting cannot be reasonably arranged within 5 working days after the originally identified date to enable the employee's preferred companion/representative to attend, Aspirations may insist on the meeting taking place within a timescale it considers appropriate. In such circumstances Aspirations would provide reasonable opportunity for the employee to be accompanied by another suitable companion/representative, if the originally identified companion/representative remained unavailable.

12.4 Conducting the Hearing

- 12.4.1 For all disciplinary hearings a note taker will attend to take minutes of proceedings. It is their role to minute the significant points of the hearing and the decision of the panel but not to produce a verbatim record.
- 12.4.2 The chair of the panel⁹ will oversee the conduct of the hearing which will normally be as set out in Appendix 3.
- 12.4.3 When proceedings of the hearing have been completed (e.g. steps 1-10 as set out in Appendix 3 have been carried out), all parties will leave the room except for members of the panel and, at the discretion of the chair, the note taker and adviser(s). Where possible the panel will reach conclusions about the case and an outcome decision in a single sitting but, if necessary, they may adjourn and re-convene. Where this is the case, the employee will be advised of any expected delay in the decision being made.
- 12.4.4 In reaching conclusions about the case the panel shall consider each allegation and determine for each with reference to the available evidence whether it is found to be proven. The panel will reach this decision on the basis of the balance of probabilities.
- 12.4.5 After reaching conclusions about the allegations and taking into account other relevant factors, e.g. mitigating factors raised by the employee, the panel shall determine an outcome decision.

The potential outcome decisions are:

- The allegation is judged to be unfounded or insufficiently substantiated and no sanction is appropriate.
 - A finding of misconduct but the matter is judged to be sufficiently minor and/or it is accepted that there were sufficiently significant mitigating factors as to warrant informal action in line with that set out in section 8 of the Disciplinary Policy (i.e. short of a formal warning).
 - A finding of misconduct or gross misconduct and the issuing of a sanction determined with reference to 12.5.
- 12.4.6 The employee and their representative should be informed of the decision of the disciplinary hearing as soon as possible. The chair of the panel will confirm this in writing within five working days of the determination of the outcome.
- 12.4.7 Where the outcome letter provides notification of a sanction the letter must also confirm the individual's right of appeal, the person to whom the individual must write in order to appeal (normally the Principal), and of the right to be accompanied by a trade union representative or fellow employee of the Trust at any appeal hearing. Further details of the appeals process are outlined in section 13.

⁹ Note: as set out in 12.2.1, in some circumstances the Commissioning Manager may conduct the hearing in person rather than convene a panel. References to "the panel" or the "chair of the panel" under 12.4 should also be read as "Commissioning Manager" for such cases.

12.5 Disciplinary Sanctions

12.5.1 Subject to the conclusions of a formal disciplinary hearing conducted with reference to sections 12.1 to 12.4, the sanctions set out under 12.5.2 can be determined for breaches of conduct (a non-exhaustive list of matters is given in Appendix 1 as examples of misconduct and gross misconduct).

12.5.2 Warnings are generally progressive from *written warning* to final *warning* except for:

- Cases of gross misconduct which, if found proven at a disciplinary hearing, may result in summary dismissal (with no entitlement to statutory or contractual notice). In cases where gross misconduct is found proven but summary dismissal is not considered an appropriate sanction, a final written warning may be issued.
- Cases where a matter is found to be less serious than gross misconduct but nevertheless highly serious in nature such that it is considered appropriate for a final written warning to be issued even if no previous warning has been issued.

Disciplinary Sanction	Authority to Issue	Normal Live Period
Written warning	Chair of Disciplinary Panel	12 months
Final written warning	Chair of Disciplinary Panel	24 months
Dismissal	Chair of Disciplinary Panel	-

Note: In circumstances where dismissal is the determined outcome a further alternative that may be considered is dismissal and simultaneous re-engagement in a lower graded post (with no protection of pay). Prior to any such determination the Aspirations Director of HR and Compliance would be consulted.

12.5.3 Further misconduct may occur while a previously issued written warning remains live. Where this leads to a further warning being issued (potentially, though not necessarily, a final written warning), the duration of the new warning will supersede that of the earlier written warning.

12.5.4 On the expiry of the period stated, a warning will be regarded as spent but the warning letter may continue to be held on the employee's file for a further period. As the warning will have ceased to be live it will not normally be revealed in response to enquiries such as employment reference requests unless Aspirations has a legal duty or other obligation to do so. However, should the employee at a later date face allegations of the same or a similar nature, which are subsequently proven at a disciplinary hearing, the fact that the employee has an expired warning for the same or a similar allegation may be taken into account in determining the appropriate penalty, depending on the facts of the case. The length of time that the warning letter would appropriately be retained on file will depend on the circumstances, such as the severity of the misconduct findings.¹⁰

12.5.5 Managers should be mindful that, for an employee with a live final written warning who is alleged to have committed a further occurrence of misconduct, dismissal is a potential disciplinary outcome. Therefore the written notification to the employee concerning the

¹⁰ For example, a single warning for poor timekeeping is likely to be issued for a live period of no more than 12 months and the need to keep the letter on file would be exhausted by no later than two years after the cessation of the live period if no further concerns arose in respect of the employee within that period. However, a warning letter in respect of more serious misconduct, e.g. serious insubordination, might reasonably be retained for a longer period. This would also be the case where, over the period the letter was retained, further disciplinary concerns needed to be addressed with the employee.

disciplinary hearing should advise that dismissal is a potential outcome (as would be the case for allegations of gross misconduct, even if no prior warning had been issued).

12.5.6 As appropriate in view of the matters under consideration, where a member of staff is dismissed, notification to professional and safeguarding bodies will be undertaken by Aspirations in line with regulations or Government guidance.

13. Appeals Procedure

13.1 Employees have the right of appeal against a formal disciplinary sanction.

13.2 Appeals must be received in writing by the appropriate person identified within the outcome letter (most often this would be the Principal) within five working days of written notification of a warning or final written warning, or within ten working days of written notification of dismissal. Appeals received after the allowed period will not be heard.

13.3 In submitting an appeal, employees are asking the appeal panel to consider the fairness and reasonableness of any disciplinary measures taken at the original hearing.

13.4 Normally, the appeal hearing will concentrate only on the area(s) identified as the grounds of appeal and will not be a re-hearing. Accordingly, it is important that the employee is explicit about the grounds for appeal and must provide clear and specific reasons in writing. The written notice of appeal must include reference to any new facts the appellant intends to raise at the appeal hearing (detailed documentation may follow in accordance with 13.6).

13.5 Appeals against disciplinary action will be usually be considered in relation to one or more of the following grounds:

- i) The **PROCEDURE**, – the grounds of appeal should detail how 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 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.

13.6 Should the appellant wish to present any new evidence this should be submitted as soon as possible. If this is unavailable at the time of submission of the letter of appeal then it should be submitted at least three working days prior to the appeal hearing so that management has an opportunity to consider this in advance of the hearing. If the appellant wishes to submit evidence later than this, its admission will be at the discretion of the chair of the appeal panel. Similarly, if the appellant wishes to call any witness, details should be provided by at least three working days in advance of the appeal hearing.

13.7 The recipient of the appeal letter will liaise with Principal and Commissioning Manager with a view to arrangements being made for an appeal panel to be convened.

13.8 Appeals must be considered by an appeals panel, which will normally consist of the Principal (or member of the District Board if the Principal has had prior involvement in the case) and a representative from Aspirations who has had no prior involvement in the case. Where it is not possible or appropriate for an appeal panel to be constituted on this basis the Managing Director or, as appropriate, the Chair of Board of Trustees shall authorise suitable alternative membership.

- 13.9 Generally the Principal/District Board member will chair the panel.
- 13.10 The chair of the appeal panel will co-ordinate, in conjunction with the Principal and Commissioning Manager, for a letter to be sent to the appellant confirming the details of the appeal hearing and providing other relevant documentation. The details to be provided in the letter should:
- Specify the date, time and place for the appeal hearing (a minimum of **five working days' notice**¹¹ is required)
 - Identify those to attend as panel members and those attending to respond to the appellant's case (normally the chair of the disciplinary panel and the Investigating Officer). Note should also be made of anyone who is to attend as an adviser.
 - Inform the employee of their right to be accompanied by a trade union representative or fellow employee of the Trust.
 - Ask the employee to confirm whether or not they will be attending the hearing.
- 13.11 Documentation to be made available for the hearing should include:
- The investigation report and covering letter originally issued to the employee and any other documentary evidence considered by the disciplinary panel
 - The letter confirming the outcome of the disciplinary hearing
 - Notes taken of the proceedings of the disciplinary hearing
 - The letter of appeal
 - Any other evidence received in the relevant time scale from the appellant
- 13.12 Provisions set out for the disciplinary hearing in 12.3.2 and 12.3.3 shall equally apply for the appeal hearing.
- 13.13 A note taker will attend to take minutes of proceedings. It is their role to minute the significant points of the hearing and the decision of the panel but not to produce a verbatim record.
- 13.14 The chair of the panel will oversee the conduct of the hearing which will normally be as set out in Appendix 4.
- 13.15 When proceedings of the hearing have been completed (e.g. when steps 1-10 as set out in Appendix 4 have been carried out), all parties will leave the room except for members of the panel and, at the discretion of the chair, the note taker and adviser(s). Where possible the panel will reach conclusions about the appeal in a single sitting but, if necessary, they may adjourn and re-convene. Where this is the case, the employee will be advised of any expected delay in the decision being made.
- 13.16 In reaching conclusions about the case the panel shall consider each of the grounds of appeal raised by the appellant and determine for each, with reference to the available evidence, whether or not it is found to be accepted. The panel will reach factual decisions on the basis of the balance of probabilities.
- 13.17 After reaching conclusions about the grounds of appeal the panel shall *normally*¹² determine an outcome decision. The decisions available are:

¹¹ For teaching staff "working days" will not be deemed to include days that are not within the academy's time. The same will apply in respect of support staff who have a term time based contract except in respect of any particular periods outside the academy's term time that are contractually part of their working year.

¹² In exceptional circumstances, such as those where the appeal panel concludes that a serious procedural irregularity makes the original disciplinary decision unsound, it may be necessary for there to

- The sanction determined at the disciplinary hearing remains appropriate.
- The sanction determined at the disciplinary hearing is amended to a lesser sanction with reference to 12.5.2.
- The sanction determined at the disciplinary hearing is withdrawn but informal action is still considered appropriate in line with that set out in section 8 of the Disciplinary Policy (i.e. short of a formal warning).
- The sanction determined at the disciplinary hearing is withdrawn and no other formal sanction or informal disciplinary action is considered appropriate.

13.18 The result of the appeal hearing and the reasons for the decision will be conveyed to the appellant as soon as possible and will be confirmed in writing to the appellant by the chair of the appeal panel within **5 working days** of the determination of the outcome. The letter shall confirm that the decision of the appeal panel is final.

14. Record keeping

14.1 Written records of meetings and discussions relating to the disciplinary process must be kept. These must be written during or as soon as possible after the event to ensure the accuracy of the record. Written confirmation of the outcome of a hearing will be sent to the employee for their information and a copy kept on the employee's personnel file in accordance with the General Data Protection Regulations. Records should include:

- the nature of the alleged misconduct;
- what was decided and actions taken;
- the reason for the actions;
- whether an appeal was lodged;
- the outcome of the appeal

14.2 Employees may also wish to keep records of events to support their case.

15. Special Situations

15.1 Grievances raised during the course of the disciplinary procedure

15.1.1 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 Aspirations Grievance Policy.

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

15.2 Discipline of Employee Representatives

15.2.1 Any disciplinary action being contemplated in accordance with this Policy against a nominated representative of a recognised trade union should not be instigated without notification in advance to the full-time official or nominee, of the appropriate Trade Union.

16. Review

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

be a re-hearing to freshly consider the allegations prior to the appeal panel determining an outcome decision.

Appendix 1 - Examples of Misconduct and Gross Misconduct

The following examples, listed under the sub headings (1) Misconduct and (2) Gross Misconduct are provided as a point of reference to support in assessing the relative seriousness of disciplinary cases.

These lists are not exhaustive.

o 1) MISCONDUCT

- 1.1 Poor timekeeping (e.g. persistently late for work).
- 1.2 Unauthorised absence (but also refer to 2.1).
- 1.3 Failure to (i) follow established procedures or (ii) act in accordance with reasonable instructions with notable but not serious implications.
- 1.4 Failure to take proper care of Academy/Trust property or equipment with notable but not serious implications.
- 1.5 Negligence at work with notable but not serious implications.
- 1.6 Wilfully inadequate work performance with notable but not serious implications.

Note: where concerns about an employee's performance relate to the individual's competence and not to shortcomings arising from wilful behaviour or negligence, the matter should be considered with reference to the Appraisal and/or Capability policy.

- 1.7 Insubordination (but also refer to 2.16).
- 1.8 Breaches of Health and Safety requirements with notable but not serious implications.
- 1.9 Misuse of facilities (including email or internet) with notable but not serious implications.
- 1.10 Improper (e.g. rude/offensive) or disorderly conduct at or near the school with notable but not serious implications.
- 1.11 Bullying and harassment (but also refer to 2.10)
- 1.12 Failure to follow general and job specific expectations in respect of dress or hygiene.
- 1.13 Engaging in activity, on or off duty, which could be detrimental to the reputation of the Academy/Trust or otherwise diminish trust and confidence in suitability for the role for which employed (but also refer to 2.29).
- 1.14 Minor breach of the "exclusivity of service" clause of the employment contract. For example, where an employee engages in employment with another organisation without first seeking agreement of the Principal or other relevant manager but it is subsequently found that the external employment was not in conflict with the interests of the Academy/Trust and was undertaken when off duty with the Academy/Trust.

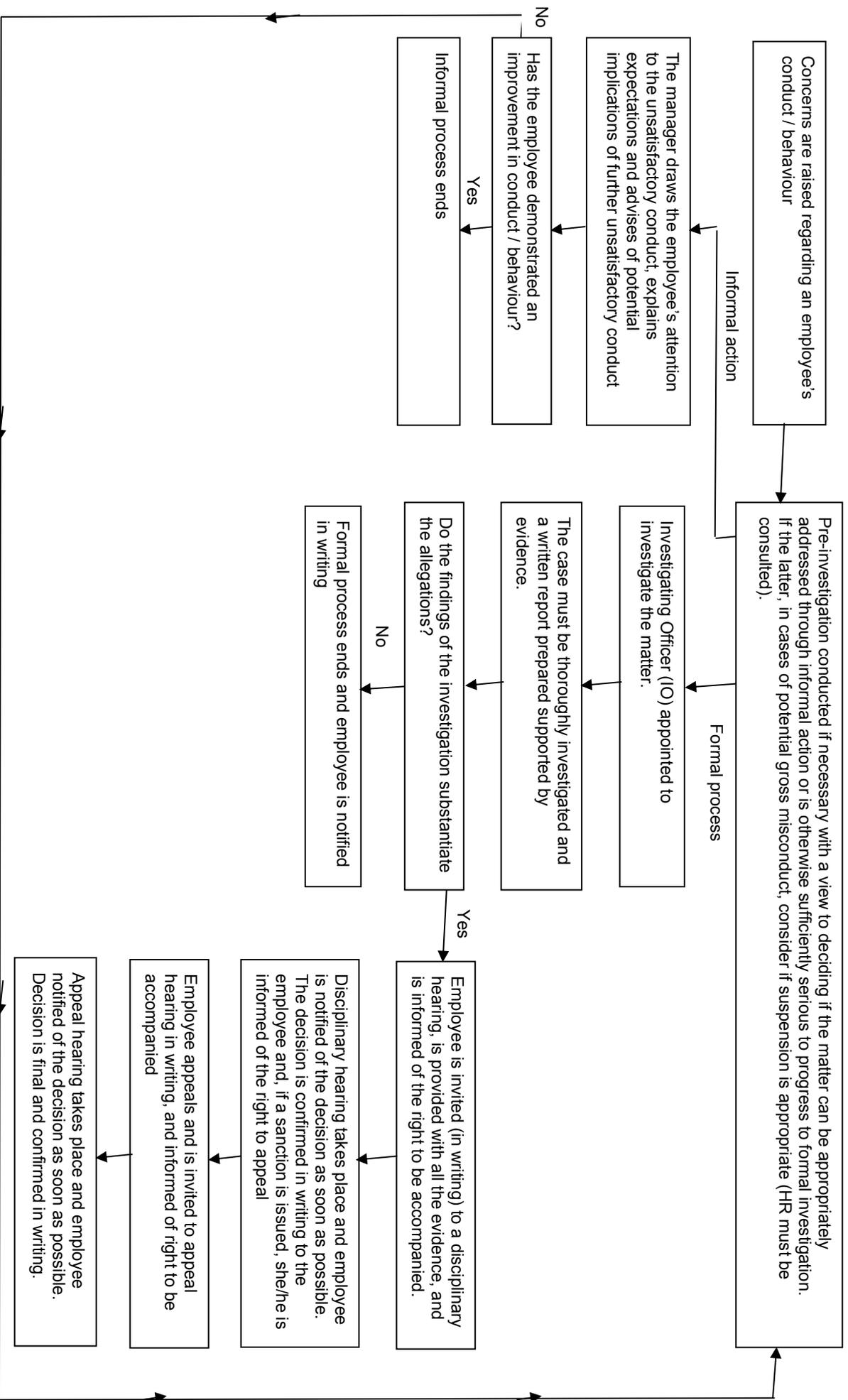
2) GROSS MISCONDUCT

- 2.1 Repeated or prolonged unauthorised absence from work.
- 2.2 While purporting to be absent due to ill health, working or engaging in activities, which would reasonably be considered inconsistent with the nature of ill health and/or which could reasonably be expected to be detrimental to recovery.

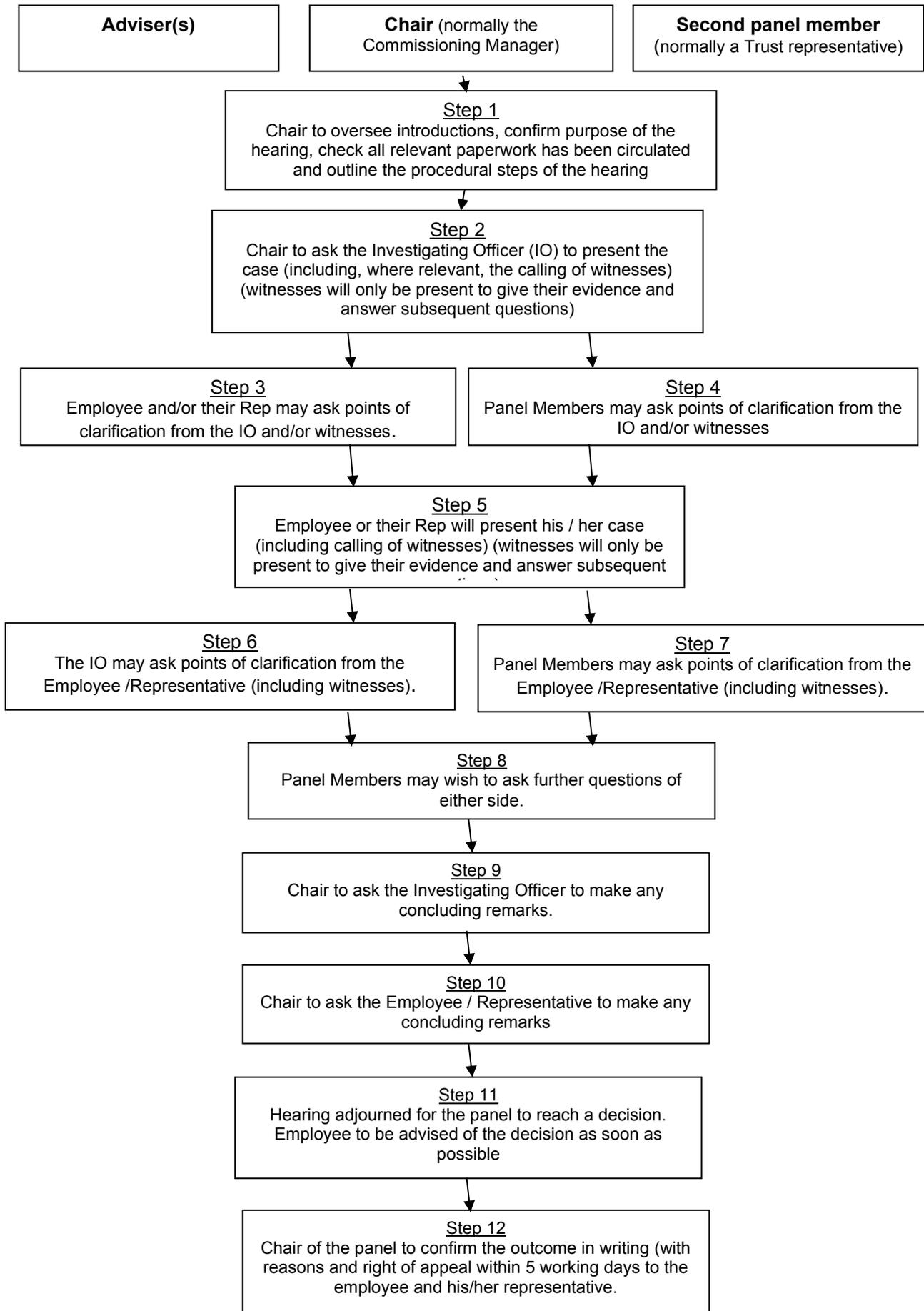
- 2.3 Failure in duty of care to protect pupils by placing them at significant risk.
- 2.4 Inappropriate conduct towards or contact with children/young people.
- 2.5 Any form of abuse of children/young people.
- 2.6 Seriously threatening or abusive behaviour towards fellow employees or others in the school community.
- 2.7 Conduct at work likely to offend decency – including sexual misconduct or harassment.
- 2.8 Discrimination/harassment against a pupil, employee or others in the school community, 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.
- 2.9 Fighting or acts of violence.
- 2.10 Serious bullying and harassment.
- 2.11 Failure to (i) follow established procedures or (ii) act in accordance with reasonable instructions with serious (or potentially serious) implications.
- 2.12 Failure to take proper care of Academy/Trust property or equipment with serious (or potentially serious) implications.
- 2.13 Failure to report or record any serious matter which it is the employee's contractual duty (either expressed or implied) to report.
- 2.14 Negligence at work with serious (or potentially serious) implications.
- 2.15 Wilfully inadequate work performance with serious (or potentially serious) implications.
- 2.16 Serious acts of insubordination.
- 2.17 Deliberate, wilful or malicious damage or misuse of the Trust's facilities or resources (e.g. property, equipment, data systems, records, etc.).
- 2.18 Breaches of Health and Safety requirements with serious or potentially serious implications.
- 2.19 Being incapable of appropriately performing duties as a result of the intake of alcohol or drugs (not including drugs recognised as being for medicinal purposes).
- 2.20 Theft or misappropriation of, or failure to account for, or falsely claiming entitlement to, the property, assets or funds of the school or its employees.
- 2.21 Fraud such as falsification of documents/records likely to be of financial or other benefit to the employee or other persons (e.g. time sheets, bonus/expense claims, qualifications) or malpractice relating to students' academic work, including exams.
- 2.22 Corrupt or improper practice (such as an employee improperly using or attempting to use their position for their own private advantage or for the private advantage of some other person or deliberately/negligently failing to declare an interest/relationship in circumstances where this compromises trust and confidence).
- 2.23 Serious misuse of facilities (including internet, email, equipment).

- 2.24 Using the Trust's or Academy's computer systems to access internet sites containing pornographic, racist, offensive or obscene material; send such material via the work email system; or store such material.
- 2.25 Culpability, deliberate or otherwise, in a serious breach of data protection protocols (e.g. seriously inappropriate disclosure of highly confidential or highly sensitive or commercially valuable information).
- 2.26 Serious breaches of the school's Financial Regulations.
- 2.27 Serious breaches of codes of conduct relevant to the role (e.g. codes of conduct issued by the Trust, the Academy, relevant professional body, etc.).
- 2.28 Making malicious allegations or providing false evidence under any of the school's policies and/or procedures.
- 2.29 Engaging in activity, on or off duty, which could be seriously damaging to the reputation of the Academy/Trust or otherwise breach trust and confidence in suitability for the role for which employed. This includes being guilty of criminal offences that occur or come to the employer's attention during the course of the employment where these are of a nature that make the individual unsuitable for employment with the Trust (e.g. crime involving child abuse, sexual offences, serious violence, drug related offences, etc.).
- 2.30 Failure to disclose to the Principal or Managing Director (as appropriate) any criminal conviction, caution or reprimand, warning or bind-over received whilst employed.
- 2.31 Providing false/misleading information in the course of selection procedures.
- 2.32 Disqualification from driving (only in circumstances where driving is essential for the performance of the role).
- 2.33 Failure to cooperate with the application process for a Disclosure and Barring Service (DBS) check where the post is subject to a DBS check being undertaken.
- 2.34 Failure to maintain membership of a professional body where such membership is a requirement of the post.
- 2.35 Serious breach of the "exclusivity of service" clause of the employment contract e.g. without having prior permission, engaging in employment with another organisation during normal working hours with the Academy/Trust (including when absent from the Academy/Trust due to ill health).

Appendix 2 – Indicative Process of Disciplinary Procedure



Appendix 3 – Indicative Process of Disciplinary Hearing



Appendix 4 – Indicative Process of Appeal Hearing

