Allen Edwards Primary School

Staff Disciplinary Policy and Procedure

ALLEN EDWARDS PRIMARY SCHOOL

Contents

1. Introduction *3*

1.1 Aim 3

1.2 Scope, Application and Terms of Reference 3

2. Responsibilities *4*

3. Principles *4*

4. Legal requirements *5*

5. Governor's responsibilities *5*

6. Entitlement to be accompanied by a Trade Union representative or colleague *5*

7. Initial considerations, informal resolution and written warning by agreement *5*

8. Suspension from duty *6*

9. Investigation *7*

10. Child protection *9*

11. Criminal offences *9*

12. Disciplinary procedure *9*

12.1 Formal Stage – Disciplinary Interview 9

12.2 Formal Stage – Disciplinary Hearing 10

12.3 Preparing for a disciplinary hearing 10

12.4 Procedure at disciplinary hearing 12

12.5 Postponements or adjournments 13

12.6 Disciplinary action against a Trade Union representative 14

12.7 Sanctions available 14

12.8 Giving the decision 14

13. Process for appeals *15*

13.1 Lodging an appeal 15

13.2 Grounds for appeal 15

13.3 Composition of the appeal panel and initial steps 16

13.4 Powers of appeal 16

13.5 Time submission of appeal documents 16

13.6 Procedure for appeal hearing 17

14. Subsequent action *17*

15. Approval and Variation Process *18*

Appendix 1 – Disciplinary Rules 19

Appendix 2 – Disciplinary Procedure Flowchart 22

Appendix 3 – Version Details. 24

Staff Disciplinary Policy and Procedure

1. Introduction

1.1 Aim

1.1.1 The purpose of the policy is to maintain appropriate standards of conduct in employment through the application of fair and effective management of disciplinary matters.

1.1.2 The policy aims to:

- Support and encourage observance of acceptable standards of conduct at work;
- Be a corrective rather than a punitive process, aimed at improving conduct by advice, counselling and direction rather than by disciplinary measures;
- Provide a fair and consistent method of dealing with alleged breaches in standards of conduct;
- Provide appropriate disciplinary sanction where an alleged breach of the disciplinary rules at Appendix 1 has been upheld.

1.2 Scope, Application and Terms of Reference

1.1.3 This policy is for use where there are allegations of a breach of the disciplinary rules. There are other procedures which deal with sickness, capability and grievances.

1.1.4 The policy applies to all employees at the school including teachers, Headteachers and support staff.

1.1.5 Lambeth Schools' HR service should be informed1[1] of all disciplinary cases and may provide advice to the Headteacher and / or Governors in the management of the case.

1.1.6 Steps assigned to the Headteacher in this policy may be delegated to an appropriate senior staff member, provided that the Headteacher consults the Governors about the delegation. The exception to this is the decision to issue a written warning pursuant to this policy which will not usually be delegated below Headteacher level.

1.1.7 Where the Headteacher is suspected breaching of the disciplinary rules, the procedures described in this policy are modified so that the Governors, or other designated governor, replaces the Headteacher in initiating any action to be taken or any step usually assigned to the Headteacher. If there is no suitable impartial governor available, then the governing board could appoint an external person to carry out this function - for example a governor from a different Lambeth school.

[1] The School Staffing England) Regulations 2009 Regulation 14 – the Local Authority may offer advice to a Community or Maintained or Controlled School / Nursery on proceedings relating to the dismissal of a teacher. The governing board must consider any such advice. A similar provision applies to Foundation, Voluntary Aided and Foundation Special Schools in Regulation 26.

1.1.8 References in this document to the Governors could include another designated governor appointed by the governing board, if for example the Governors is unavailable or it is considered more appropriate for a different governor to deal with the matter.

1.1.9 References to 'governor panel' will be a panel of three governors. The governing board will select three governors and will nominate one of them to be chair of the panel. The chair of the panel shall either be trained or suitably experienced in chairing formal panels. No governor who has had prior involvement in a particular case should sit on the panel. If there are insufficient suitable governors available from the school's governing board, then governors from the governing boards of other schools may be appointed to the panel. The panel will make decisions by majority vote, although the chair or the panel may make decisions in relation to procedure for example postponements. If the Governors is not a member of the panel the Governors will be given brief information only about the matter, they will not be given full details in case the Governors is needed as a future decision maker in the matter.

2. Responsibilities

2.1 Employees have responsibility to conduct themselves in a professional and lawful manner. The school therefore expects all employees to abide by the Code of Conduct.

2.2 The Headteacher is responsible for controlling the internal organisation, management and discipline of the school in consultation with the governing board.

2.3 The Headteacher is responsible for maintaining acceptable standards of conduct in the school and is authorised to take disciplinary action in accordance with this policy.

3. Principles

3.1 This disciplinary policy and procedure has been adopted by the governing board in accordance with legislation[2]. Care has been taken to ensure that the policy is consistent with relevant legislation and with ACAS Code of Practice on Disciplinary and Grievance Procedures.

3.2 This policy has been negotiated and agreed with School Trade Unions

3.3 References to 'the policy' or 'this policy' mean the Schools Disciplinary Policy and Procedure.

3.4 References to 'colleague' mean an employee working at the same school or federation.

3.5 References to 'disciplinary interview' mean a disciplinary meeting with the Headteacher where the matter is not referred to a panel of the governing board.

3.6 References to 'disciplinary hearing' mean a disciplinary meeting being conducted by a panel of the governing board.

[2] See School Staffing (England) Regulations 2009.

4. Legal requirements

4.1 The Employment Rights Act 1996 contains the following provisions relevant to reasons for dismissal related to conduct.

4.2 In determining whether the dismissal of an employee for misconduct was fair or unfair, the employer must show:

a) what was the reason, or (if there was more than one), the principal reason for dismissal and

b) whether in the circumstances the employer acted reasonably in treating the misconduct as a sufficient reason for dismissing the employee.

5. Governor's responsibilities

5.1 Where there is a disciplinary hearing or appeal hearing the governing board will appoint a panel of three governors to hear the case (see section 'Scope, Application and Terms of Reference).

5.2 The governing board must ensure that:

- Employees are aware of the disciplinary procedure and standards;
- They are familiar with the procedures, so that employees are confident that disciplinary matters will be investigated and managed in a fair and orderly manner;
- They apply the relevant stages of the disciplinary procedure and comply with the statutory requirements;
- Full and accurate records are kept of all investigations and formal hearings and they are made available when necessary;
- Training is provided for all those who have responsibility for handling disciplinary matters.

6. Entitlement to be accompanied by a Trade Union representative or colleague

6.1 Employees are entitled to be accompanied by a Trade Union representative or colleague at an investigation meeting, a disciplinary interview, or a disciplinary hearing.

6.2 Details relating to disciplinary proceedings will only be sent directly to Trade Union representatives at the request of the employee.

7. Initial considerations, informal resolution and written warning by agreement

7.1 When the Headteacher becomes aware of a possible misconduct issue, the Headteacher will consider whether a disciplinary investigation is required or whether an informal resolution may be appropriate. An informal discussion between the Headteacher and employee (usually without HR or unions being involved in the meeting) may often be a more satisfactory method of resolving problems than referral to the formal disciplinary process.

7.2 If the matter is resolved at an informal meeting, then it is the responsibility of the Headteacher to ensure that the employee understands how their conduct is failing to meet the required standard, what needs to be done to improve, how the conduct will be reviewed and over what period. It is advisable for the Headteacher to provide an agreed written outcome of an informal meeting. The letter confirming the outcome should state that no formal action is to be taken this time, but that any further breaches may lead to a formal disciplinary procedure. A management expectation letter should not normally be retained on file for more than two years.

7.3 An informal discussion must not turn into a formal disciplinary. If it emerges that the matter may warrant formal action under the disciplinary procedure, the Headteacher should end the meeting and inform the employee accordingly.

7.4 It may be possible to conclude matters with a written warning at an early stage in the following circumstances:

- The employee admits the alleged misconduct;
- The employee agrees to accept a written warning from the Headteacher without the requirement for future investigation, disciplinary interview, or disciplinary panel;
- The Headteacher is satisfied that a written warning without reference to a formal disciplinary interview or disciplinary hearing is an appropriate outcome; and
- The written warning is confirmed in writing and has the same effect as a written warning issued following a disciplinary interview.
- Note that this applies to a written warning for up to two years only, not to a final written warning.

7.5 A Headteacher may decide at an early stage that there is no case to answer. If so this should be confirmed in writing to the employee.

7.6 If informal action as detailed above does not lead to the required level of improvement, the formal stages of the disciplinary procedure should be used.

7.7 Where it is evident that an employee's behaviour (e.g. alcohol abuse) could be treated in other ways, alternative options should be considered before disciplinary action is taken.

8. Suspension from duty

8.1 On receipt of a complaint or concern which appears to involve allegations of gross misconduct, it may be appropriate for the Headteacher or Governors to suspend the employee pending an investigation of the allegation. The Headteacher should first refer to the suspension guidance and form. In many cases of alleged gross misconduct, it may be prudent to suspend, but it is not essential. Whether to suspend or not will depend on the circumstances of the case. Suspension may be appropriate because the employee’s presence would put them, or others, or the employer at risk; or could undermine the investigation; or there may be safeguarding concerns. Before suspending an employee, consideration should be given to whether there is a suitable alternative to suspension such as short-term relocation to another work area or temporary suspension from some duties.

8.2 An employee who is to be suspended from some or all of their duties or relocated will, where possible, be invited to a confidential meeting, so that they may be advised in person of the terms of their suspension/relocation. They should be informed that such suspension is not an indication of guilt in respect of allegations made and is not in itself a disciplinary sanction.

8.3 Advice should be sought from Lambeth Schools' HR prior to suspension[3]. A Headteacher who suspends should notify the governing board and Lambeth Schools' HR. A governing board who suspends should notify the Headteacher and Lambeth Schools' HR.

8.4 The Headteacher or Governors is responsible for advising the employee of the reasons for suspension, any conditions relating to it, the action proposed and, where known, the likely duration of the suspension. This should be confirmed in writing.

8.5 The Headteacher should ensure that a suspension risk assessment is completed and reviewed on a regular basis.

8.6 Suspension will be with normal pay in all instances.

8.7 The suspended employee is to remain available to assist with or participate in the disciplinary process.

8.8 Conditions relating to a suspension will usually include a requirement not to return to the workplace or to contact colleagues without the consent of the Headteacher or the human resources officer involved with the case. An employee who is suspended is entitled to contact their Trade Union representative to accompany them at meetings.

8.9 If an employee is suspended, they are recommended to seek advice from their suspension duty of care officer or Lambeth Schools HR, prior to contacting a colleague to accompany them at meetings as this may be in breach of their suspension.

8.10 In cases where the employee is at risk of dismissal the employee may ask to resign. In this situation Headteachers should not enter into discussions or negotiations with employees or their representatives without first seeking advice from Lambeth Schools' HR.

8.11 Suspension can only be lifted by the governing board[4].

9. Investigation

9.1 If the Headteacher considers that there may be a case to answer and the matter is not resolved informally, then the Headteacher shall arrange for the allegation of misconduct to be investigated. Consideration should be given to protection of evidence pending the completion of the investigation, for example suspending access to email accounts if necessary.

[3] The School Staffing England) Regulations 2009 Regulation 19 requires that in a Community or Maintained or Controlled School / Nursery the local authority, the governing board and the Headteacher are all notified of the fact of suspension.
[4] The School Staffing England) Regulations 2009 Regulation 19 states that in a Community or Maintained or Controlled School / Nursery only the governing board may end a suspension and that on ending the suspension they must immediately inform the Local Authority and the Headteacher.

9.2 The investigation may be carried out by:

9.2.1 The Headteacher, but not where the Headteacher considers use the option of a disciplinary interview is likely (see below) or where the Headteacher is not able to be an impartial investigator for example because the Headteacher is a key witness or has been directly involved in the events leading up to the disciplinary action;

9.2.2 An appropriate senior manager appointed by the Headteacher;

9.2.3 Subject to consultation with the Governors and compliance with the school's financial regulations, an appropriate external investigator, e.g. Where school staff do not have the necessary skills or experience to undertake the investigation. Appropriate measures should be in place to ensure confidentiality and compliance with data protection requirements on the part of the external investigator.

9.3 The scope of the investigation may include alleged actions outside of the workplace where the alleged behaviour has a bearing on the employee's employment in the school.

9.4 Any allegations of fraud or corruption must be reported to Lambeth's Internal Audit and Counter Fraud Service by email to or by phone on 0207 926 1111 (fraud hotline). No action should be taken to investigate allegations of fraud or corruption until and unless Internal Audit agree this is appropriate. Allegations of exam cheating, malpractice or exam fraud should be reported to the Headteacher or Lambeth's Director of Education. If you're unsure as to whether an incident should be reported, contact Schools' HR.

9.5 The employee should be invited to attend an investigatory meeting. The employee will be given sufficient written notice of formal investigation meetings and informed in writing of the right to be accompanied by a colleague or Trade Union representative. The notice given will usually be at least 5 days, unless all concerned would prefer an earlier meeting.

9.6 The investigating officer must use the investigation to fully ascertain the facts of the case including interviewing witnesses where required.

9.7 The investigating officer will prepare a written report detailing the investigation undertaken. Based on the evidence obtained during the investigation, the investigating officer will state in their report whether or not it is considered that there is a case to be answered.

9.8 Following conclusion of the investigation the Headteacher will decide whether there is a case to be answered. The outcome of the investigation will inform the next steps as follows.

9.8.1 If it is found that there is no case to be answered, then the employee and any appropriate parties will be notified accordingly.

9.8.2 Where it is found that there is some substance to the case but insufficient to warrant referral to disciplinary interview or disciplinary hearing, or there are clear and sufficient mitigating circumstances, the Headteacher may choose to conclude the matter informally – see section above on informal resolution.

9.8.3 If there is a case to be answered and the Headteacher considers that a sanction of warning will be sufficient outcome in the circumstances then the Headteacher may arrange a disciplinary interview. See section below.

9.8.4 Otherwise where there is a case to be answered the matter will be referred to a disciplinary hearing. See section below.

10. Child protection

10.1 Any allegation against staff involving risk of harm to a child must be reported immediately to the Local Authority Designated Officer (LADO). The school's designated child protection officer and the head of Lambeth Schools' HR must also be notified. The child protection procedures must be followed. The interviewing of children who may have been abused requires considerable skill and experience and may be carried out by a social worker or police child protection officer. If in any doubt the Headteacher or designated officer should seek advice from the area social worker and child protection team.

10.2 The school will not start an investigation into the matter until it has received advice from the LADO.

10.3 If the Headteacher is suspected, it is the responsibility of the school's designated child protection officer, member of the leadership team or a member of the governing board to contact the LADO and the Head of Lambeth Schools' HR.

10.4 The application of the inter-agency child protection procedures is separate from any disciplinary action, which may be taken in the event of a member of staff being suspected of child abuse.

11. Criminal offences

11.1 In a matter involving a criminal investigation, is not necessary for a disciplinary investigation to be put on hold until the criminal or other investigation is complete, however this may be the most reasonable course of action in the circumstances.

12. Disciplinary procedure

12.1 Formal Stage – Disciplinary Interview

Headteacher may adopt this process if the maximum sanction is to be a written warning.

12.1.1 After completion of the investigation the Headteacher may elect to hold a disciplinary interview. This process is not to be used for cases where the appropriate sanction may be something other than a written warning.

12.1.2 If the Headteacher was the investigating officer or if the Headteacher is not able to be an impartial decision maker (for example because the Headteacher is a key witness or has been directly involved in the events leading up to the disciplinary action) then a member of the governing board may take the role of the Headteacher at the disciplinary interview.

12.1.3 The Headteacher will notify the Governors that a matter has been referred to disciplinary interview but will only provide brief information in case the Governors is needed as a future decision maker in the matter.

12.1.4 The Headteacher will convene a disciplinary interview giving at least 5 working days' notice to the employee.

12.1.5 Not less than 5 days before the date of the interview, the employee will be given written information about the allegation of misconduct and provided with a copy of the report of the investigating officer and any relevant documentary evidence. The employee will be told in writing of the entitlement to be accompanied by a Trade Union representative or colleague.

12.1.6 The employee will provide any documentary evidence to the Headteacher at least 2 working days before the hearing.

12.1.7 At the disciplinary interview the Headteacher will consider documents provided by the employee and the investigating officer, any witness evidence and oral submissions made. The employee has the right to request that any witness be questioned at this stage of proceedings and no decision may be reached until every reasonable effort has been made to allow the employee to exercise this right.

12.1.8 If the employee makes a request for a postponement of the disciplinary interview then the same factors will apply as specified in the process for a disciplinary hearing.

12.1.9 If during the disciplinary interview the Headteacher considers that further evidence may be required then the interview may be adjourned, usually for no longer than 10 working days, so that evidence can be sought. The employee will be given written confirmation of the adjournment.

12.1.10 If following an interview (or reconvened interview) a decision cannot be reached by the Headteacher, then no sanction will be given and the case will be dismissed.

12.1.11 A formal written warning or lesser sanction can be issued by the Headteacher following a disciplinary interview and without recourse to a disciplinary panel hearing. The written warning must be kept on the employee's personal file for the duration of the sanction after which time it will be deemed to have lapsed.

12.1.12 The employee will be notified in writing as to the outcome of the disciplinary interview.

12.2 Formal Stage – Disciplinary Hearing

Where sanctions up to dismissal may be issued by a panel of Governors.

12.2.1 After completion of the investigation the Headteacher may refer the matter for a disciplinary hearing. The Headteacher will arrange for the governing body to appoint a panel of three governors to comprise the governor panel for the disciplinary hearing. (See section 5 above re Governor panel composition and panel decision making).

12.3 Preparing for a disciplinary hearing

12.3.1 The management case will be presented by the investigating officer.

12.3.2 The school will notify Lambeth Schools' HR[5] of the disciplinary hearing in good time and Lambeth Schools' HR may arrange for an officer to attend the hearing for the purpose of giving advice.

12.3.3 The investigating officer will write to the employee with details of the disciplinary hearing.

This letter should contain details of:

- The allegation(s) and what breach of the disciplinary rules is alleged;
- Date, time, place of hearing;
- Constitution of disciplinary panel;
- All accompanying documents and names of witnesses to be called;
- The employee's right to be accompanied by a Trade Union representative or colleague;
- The disciplinary policy and procedure;
- Whether the potential outcome includes dismissal; and
- The right of the panel to proceed in the absence of the employee.

12.3.4 The employee will be notified in writing of the existence of any unexpired warnings on their file. (The panel will not be notified of such until after the panel has made a decision on the facts of the case).

12.3.5 The employee must be given adequate notice of the hearing date as follows:

- A minimum of five working days' notice in relation to a disciplinary hearing considering charges of misconduct;
- A minimum of ten working days' notice in relation to a disciplinary hearing considering charges of gross misconduct.

12.3.6 The employee must be given copies of documentary evidence and names of witnesses to be called by the management at least five working days prior to the hearing.

12.3.7 The employee must provide to the investigating officer copies of all documents and the names of any witnesses they intend to call in their defence at least two working days before the hearing.

12.3.8 All documents exchanged between the investigating officer and the employee must be forwarded to the panel members prior to the panel hearing.

12.3.9 Documents to be considered at a disciplinary hearing should be set out in a logical order, indexed and paginated, with a written introduction including any conclusions and recommendations for the panel.

12.3.10 It is the employee's responsibility to inform their witnesses of the date, time and place when they will be required to give evidence, and for the witnesses to obtain consent for time to attend.

[5] The School Staffing England) Regulations 2009 Regulation 14 – in relation to a Community or Maintained or Controlled School / Nursery the Local Authority is entitled to attend and offer advice at all proceedings relating to the dismissal of any teacher. Regulation 26 – in relation to Foundation, Voluntary Aided and Foundation Special Schools the Local Authority is entitled to offer advice on the dismissal of a teacher and the governing board is required to consider that advice.

12.3.10.1 If an employee is suspended, they should seek advice from their duty of care officer or Lambeth Schools HR prior to contacting their witnesses as it may be in breach of their suspension (if they're suspended).

12.3.10.2 Where witnesses are not available, consideration must be given to the submission of written evidence.

12.3.11 In certain circumstances witnesses may be accompanied but not advised or assisted when giving evidence. It will be for the panel to determine if this is appropriate.

12.4 Procedure at disciplinary hearing

12.4.1 The chair of the disciplinary panel will arrange for notes of the hearing to be taken and retained for future reference. The order of business at a disciplinary hearing will normally be:

a. The chair of the panel will

- Introduce all parties,
- State the purpose of the hearing,
- Go through the meeting 'housekeeping' such as expected duration of the meeting, arrangements for breaks, reminder to switch off mobile phones, reminder that recording is not permitted, evacuation instructions, confidentiality reminder,
- Summarise the order of the proceedings and
- Answer any questions regarding the procedure.

b. The investigating officer will state their case and call their witnesses to give evidence.

c. The employee (or their representative) will have the opportunity to question the management representative and the management witnesses.

d. The panel will have the opportunity to question the management representative and the management witnesses.

e. The employee (or their representative) will state their case and call the employee's witnesses to give evidence.

f. The management representative will have the opportunity to question the employee, the employee's representative and the employee's witnesses.

g. The panel will have the opportunity to question the employee, the employee's representative and the employee's witnesses.

h. The panel may adjourn the case for so that further evidence can be obtained by the investigating officer.

i. The management representative will be invited to summarise their case.

j. The employee (or their representative) will be invited to summarise their case.

k. The panel will deliberate in private and decide whether they find the charge(s) proven.

l. If the panel decide that there has been misconduct or gross misconduct then the HR adviser will inform the panel of any unexpired warnings on the employee's record.

m. Having reached a decision on the facts of the case and before deciding on the appropriate sanction the panel will consider any submissions on sanction. These may be written submissions or oral submissions at a reconvened hearing. The panel will consider any unexpired disciplinary penalties and any arguments in mitigation presented by the employee and/or the employee's representative.

n. Where the finding is of misconduct (rather than gross misconduct) and there is no unexpired final written warning, dismissal will not normally be appropriate and it is usual to give the employee a written warning in those circumstances. If the employee's first misconduct is sufficiently serious, it may be appropriate to move directly to a final written warning. For example, this might occur where the employee's actions had or could have had a serious or harmful impact on the school or Council

o. Where there has been an earlier warning then a further act of misconduct within a set period would normally result in a final written warning.

p. Where there has been an earlier final warning then a further act of misconduct within a set period would normally result in dismissal.

q. The severity of the outcome will relate to the gravity of the misconduct. The panel will take account of all appropriate factors before reaching a decision. If the panel is considering whether dismissal is an appropriate sanction, it shall also consider whether any alternatives to dismissal are appropriate (see section on available sanctions).

r. The panel will report the decision to the parties at the hearing, a reconvened hearing, or in writing direct to the employee. See section below on giving the decision.

12.5 Postponements or adjournments

12.5.1 If requesting a postponement, the reasons for the request must be explained to the chair of the panel, who will consider the merits of the request and decide whether to agree or not to the postponement. The employee is usually expected to give an alternative date not more than 5 working days after the original date for the hearing.

12.5.2 The employee is expected to take all reasonable steps to attend a hearing.

12.5.3 If the employee is unable to attend a hearing in person then the panel will consider alternative arrangements such as allowing the employee to attend the hearing by video link or telephone, accepting written submissions / documents, dealing with the matter in writing instead of in person or allowing the representative or colleague to attend on their behalf.

12.5.4 If the employee's Trade Union representative or colleague is unavailable to attend the sickness hearing, then the hearing will be postponed on one occasion for up to five working days to an alternative date when the representative or colleague is available.

12.5.5 Requests for postponement or adjournment will be at the discretion of the chair of the panel.

12.5.6 The hearing will not normally be re-arranged more than once. Further requests for postponement of a hearing will be considered on their merits by the Chair of the Panel and will not always be agreed.

12.5.7 The hearing may proceed in the absence of the employee.

12.5.8 If an adjournment is requested during any stage of the hearing, the panel shall consider the request in private before making a decision.

12.5.9 If any new facts emerge which require further consideration, the chair may decide to adjourn the hearing and reconvene at a later date.

12.5.10 If the employee has an outstanding grievance at the time that the disciplinary process is running, this does not mean that the disciplinary process will be automatically postponed. For example, if the grievance in fact constitutes a defence to the disciplinary charge or is a complaint about a written warning, then it may be more appropriate for it to be considered as part of the disciplinary process rather than as a separate grievance. In some situations, it will be appropriate to run the grievance process and disciplinary process in parallel, this will depend on the circumstances.

12.6 Disciplinary action against a Trade Union representative

12.6.1 No disciplinary action will be taken against a Trade Union representative beyond informal resolution until a full-time official (e.g. a full-time Branch Official or, where not available, a District or Regional Official) has been given the opportunity to discuss the circumstances of the case.

12.7 Sanctions available

12.7.1 The following sanctions are available to the disciplinary panel:

- Written warning (effective for up to 2 years);
- Final written warning (effective for up to 3 years);
- Demotion to a lower grade (or removal of additional allowances) as an alternative to dismissal (on the understanding that dismissal will follow if the demotion is not accepted by the employee);
- Recommendation of dismissal[6]6 with notice (or payment in lieu of notice);
- Recommendation of summary or immediate dismissal[7] without notice.

12.8 Giving the decision

12.8.1 The decision should be confirmed in writing within 5 working days of the hearing. Disciplinary decisions relating to Trade Union representatives need to be confirmed in writing also to the branch secretary or full time official.

[6] School Staffing (England) Regulations 2009. Regulation 20 – for Community, Voluntary Controlled, Community Special and Maintained Nursery Schools the recommendations to dismiss must be notified to the Local Authority. Within 14 days of being notified the Local Authority's Director of Education and Learning or Director of Children's Services must terminate the contract of employment with or without notice. Regulation 32 – in relation to Foundation, Voluntary Aided and Foundation Special Schools the same procedure as maintained schools applies to Local Authority employees who are being dismissed, otherwise the decision to dismiss sits with the governing board.

[7] See footnote on dismissal with notice.

12.8.2 Where misconduct or gross misconduct has been found upheld, the notification will include:

- The nature of the misconduct found;
- The sanction;
- The right of appeal and to whom this should be addressed;
- The period that any written warning will remain in force;
- The consequences of any further misconduct (where appropriate).

12.8.3 Where the sanction is a written warning, the decision must include how long the warning will remain in force for determining the penalty in any future disciplinary action and, if appropriate, the likely consequences of any further misconduct.

12.8.4 If the outcome is recommendation for dismissal then the chair of the panel will advise Schools' HR of the panel's recommendation and the Local Authority will arrange for dismissal to be confirmed in writing within 14 days (the employee will receive the panels' decision and separate dismissal letter from the Local Authority).

12.8.5 Dismissals and notice periods are effective from the date of notification.

12.8.6 If a subsequent appeal reverses the dismissal decision the termination notice will be rescinded.

13. Process for appeals

13.1 Lodging an appeal

13.1.1 Employees may appeal against all disciplinary sanctions made at a disciplinary interview or a disciplinary panel.

13.1.2 The employee must appeal in writing, giving clear and specific grounds for the appeal within 5 working days of receipt of the written disciplinary decision. The appeal letter should be addressed to the Governors or such other person as directed in the written decision. If grounds for appeal are not stated, no right of appeal will be allowed.

13.2 Grounds for appeal

13.2.1 The appeal process will consider disciplinary decisions on one or more of the following grounds.

a) The procedure. Was the procedure followed and did any failure to follow it materially affect the decision?

b) The decision. Were the conclusions of the panel unreasonable?

c) The penalty. Is the penalty considered too harsh taking into account the misconduct, the mitigating circumstances or the employee's previous service?

d) Relevant new evidence.

Note 1 The governor panel hearing the appeal can disregard any new evidence if it decides it is unreasonable for it to be raised for the first time at the appeal, for example if the evidence could have been put forward in the original hearing but was not.

Note 2 The appeal hearing will not constitute a full rehearing of the case. It will address the specific grounds of appeal set out in the notice of appeal.

13.3 Composition of the appeal panel and initial steps

13.3.1 On receipt of a notice of appeal, the notification of the appeal will be given to the chair of the disciplinary committee, the Headteacher and Lambeth Schools' HR. The Headteacher will arrange for the governing body to appoint a panel of three governors to comprise the governor panel for the appeal hearing (See section 3 above re Governor panel composition and panel decision making). The chair of the disciplinary committee will arrange for a copy of the notes of the disciplinary interview or disciplinary hearing to be sent to the employee and the chair of the appeal panel. The chair of the disciplinary panel will be asked to present the management case for the appeal hearing.

13.3.2 It is recommended that governors arrange dates and composition of the appeals panel at the outset of any disciplinary hearing.

13.3.3 On receipt of an appeal the chair of the appeal panel will arrange for an appeal date which is, as far as possible, timely and suitable to all parties concerned. The appeal hearing will normally be arranged within 20 working days of receiving a letter of appeal. The parties will be advised in writing of the date, time and venue and the employee informed the right to be accompanied by a Trade Union representative or colleague.

13.3.4 The chair of the appeals panel should arrange for notes of the appeal hearing to be taken and retained for future reference.

13.4 Powers of appeal

13.4.1 The appeal panel can confirm the disciplinary decision, impose a lesser penalty or overturn the decision made at the disciplinary panel or disciplinary interview.

13.4.2 It is the duty of an appeal panel to overturn a previous decision if it becomes apparent that this was not soundly based and this action should not be regarded as undermining authority.

13.4.3 In cases where the decision of the appeal panel is to reinstate the employee following appeal, the effective date of reinstatement will be from the initial dismissal date.

13.4.4 In giving reasons for its decision, an appeals panel upholding an original decision needs to give reasons why the appeal failed addressing each of the specific grounds of appeal. If the panel reaches a different decision or awards a different penalty the panel should explain the reasons why.

13.5 Time submission of appeal documents

13.5.1 All papers presented to the original hearing and notes of the hearing together with the decision of the Headteacher or disciplinary panel and any subsequent correspondence, must be available to the appeal panel. Any new evidence which the employee or management wishes to introduce should be copied to all parties at least 3 working days in advance of the meeting of the appeal panel.

13.6 Procedure for appeal hearing

13.6.1 The order of business for the appeal hearing will normally be as follows:

a. The chair of the panel The chair of the panel will

- Introduce all parties;
- State the purpose of the hearing;
- Go through the meeting 'housekeeping' such as expected duration of the meeting, arrangements for breaks, reminder to switch off mobile phones, reminder that recording is not permitted, evacuation instructions, and confidentiality reminder;
- Summarise the order of the proceedings and
- Answer any questions regarding the procedure.

b. The appellant, their Trade Union representative or colleague may present their case based on the grounds specified when submitting the appeal. The appellant can refer to documentation and call any witnesses necessary in connection with the grounds for appeal.

c. The management representative may ask questions of the appellant and any witnesses (including any questions on the documentation presented).

d. The appeal panel may ask questions of the appellant and any witnesses (including any questions on the documentation presented).

e. The management representative will then respond to the appellant's presentation, call witnesses as necessary in connection with the grounds for appeal and use any relevant documents.

f. The appellant and/or their representative may ask questions of management and any witnesses (including any questions on the documentation presented).

g. The appeal panel may ask questions of management and any witnesses (including any questions on the documentation presented).

h. The appellant and/or their representative may summarise their appeal case.

i. The management representative may summarise their appeal case.

j. The parties to the case will be asked by the chair to withdraw.

k. The appeal panel will deliberate in private and come to a decision.

l. The chair of the panel will formally communicate the panel’s decision in writing. The appeal panel’s decision is final.

14. Subsequent action

14.1. Once the specified period has elapsed, time expired sanctions should be removed from the employee’s personnel file and should be disregarded when a penalty is determined on any subsequent disciplinary action.

15. Approval and Variation Process

15.1 Where the School/Council wishes to amend this policy, it will consult with the relevant Trade Unions with a view to reaching agreement over the proposed amendment(s). This policy may be amended by agreement with the relevant Trade Unions at any time. Where agreement has not been reached with the relevant Trade Unions arising from consultations, the School/Council reserves the right to implement its proposed amendment(s) by giving one month's notice to employees of its proposal(s).

This Policy is approved and signed by:

Director, Education & Learning Name: Abrilli Phillip

Date: April 2022

On behalf of Trade Unions: Sara Tomlinson Lambeth Trade Union's Joint Education Secretary

Name: Sara Tomlinson Date: April 2022

Appendix 1 – Disciplinary Rules

These rules apply to all school-based employees. Any breaches of these rules can result in disciplinary action.

The list of rules in both the categories of gross misconduct and other misconduct are neither exclusive nor exhaustive and in addition there may be other offences of a similar gravity which will constitute gross misconduct or misconduct. It should be noted that there will be circumstances where breaches of rules listed as "other misconduct" may be regarded as gross misconduct depending on the nature and seniority of the job held, the severity and/or frequency of the breach.

These rules should be read in conjunction with the Staff Code of Conduct.

A. Gross Misconduct

Gross misconduct is defined as misconduct of such a serious nature that the Council or school is justified in no longer tolerating an employee's continued presence at their place of work. Where, after due consideration, the allegation(s) against the employee are substantiated, the employee will be dismissed without notice unless there are sufficient mitigating circumstances. Examples of gross misconduct relating to all employees include:

1. Acts of discrimination, harassment or abuse against employees, clients or members of the public on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race including ethnic or national origins, colour or nationality, religion or belief, sex (gender), sexual orientation, or serious failure to operate or comply with the Council/School's Equal Opportunity Policy or the Council's Codes of Practice. Acts of discrimination and harassment include the production, distribution, display or communication of material which may give rise to offence on any of these grounds. (Material will be taken to include books, posters, magazines and other publications, cartoons, cards, personalised telegrams, advertisements, calendars, photographs, videos, social media activity, computer generated imagery etc.)
2. Harassment, bullying and victimisation of any employee.
3. Unauthorised removal possession or theft of property belonging to the Council/School, a fellow employee, client or member of the public.
4. Acts of violence including the physical assault on, or serious threat against, a fellow employee, client, or member of the Council/School or of the public.
5. Falsification of qualifications or information in connection with employment.
6. Sexual misconduct at work.
7. Malicious damage to Council/School property.
8. Falsification of attendance records, time records, overtime claims, expenses claims etc.
9. Acceptance of bribes or other corrupt practices including accepting money or other reward for work done, apart from that which the Council/School pays.
10. Unauthorised access to, use or disclosure of confidential matters including the unauthorised use or disclosure of any computer-held or computer-generated information from which a living individual can be identified.

11. Conviction for a criminal offence that may affect the reputation of the school or Council or their relationships with their staff, clients or the public, or otherwise affects the employee's suitability to remain in employment.
12. Serious breaches of health and safety rules including deliberate damage to, or misappropriation of safety equipment or endangering others while under the influence of intoxicants.
13. Whilst under the influence of intoxicants acting in a manner which may bring the Council/School into disrepute.
14. Holding unauthorised employment during paid Council/School time.
15. Acts of fraud against the Council/School or other public organisations, e.g. other local authorities and benefits agencies.
16. Serious breach of the sickness policy, for example taking extensive sickness leave when not in fact sick.
17. Serious incidences of unauthorised absence.
18. Making untrue allegations in bad faith against a colleague.
19. Making a disclosure of false or misleading information under the whistleblowing policy maliciously or for personal gain or otherwise in bad faith.
20. Deliberately accessing internet sites containing pornographic, offensive or obscene material.
21. Unauthorised indebtedness to the Council / School.
22. Serious breach of the Staff Code of Conduct.
23. Serious breach of the School or Council's Financial Regulations.
24. Serious mismanagement of school finances leading to significant overspend of a manager's budget.
25. Serious breach of whole school policies or Council policies such as policies relating to computer use, confidentiality, data protection, or dress code.

B. Other Misconduct

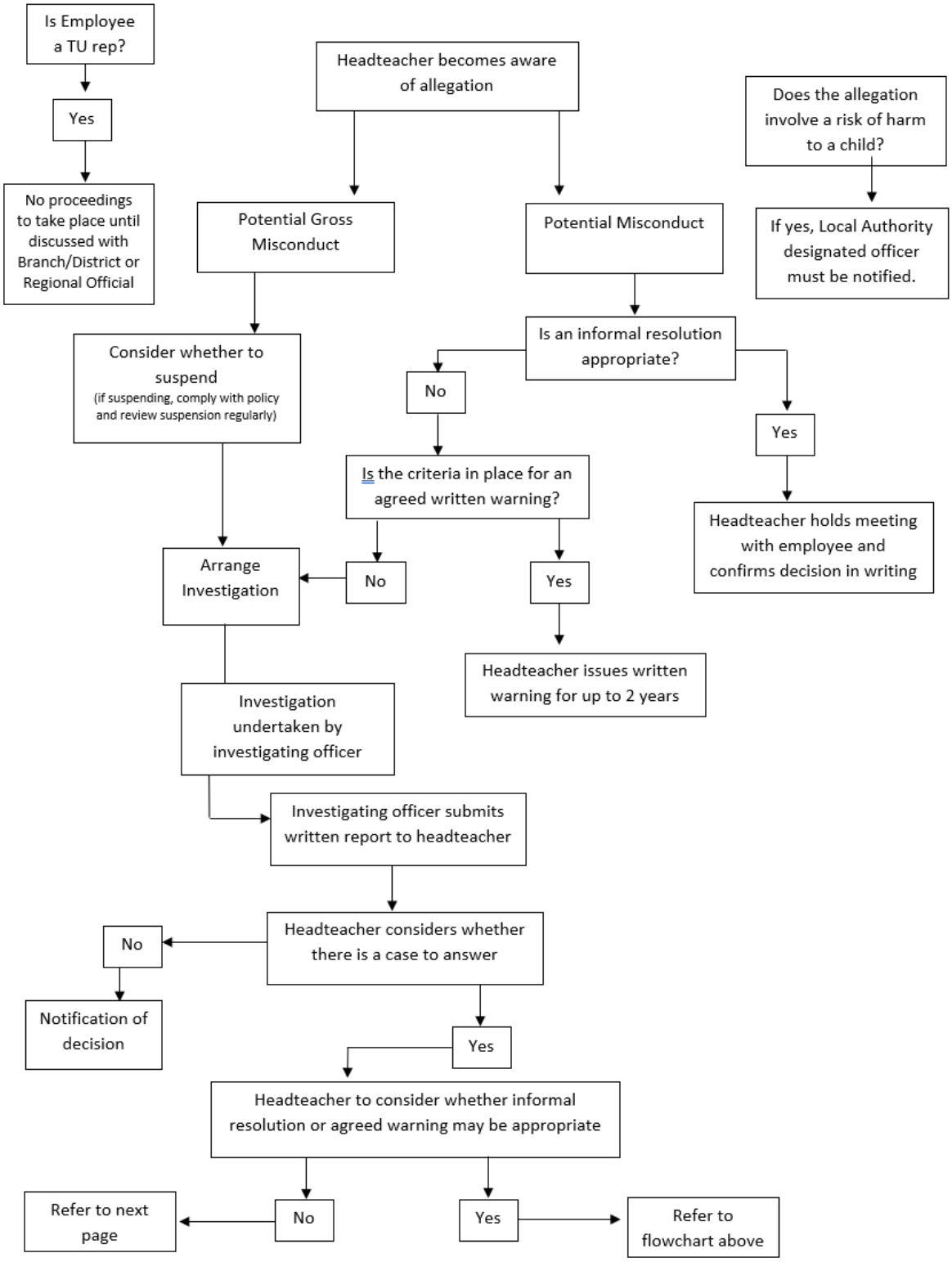
The great majority of breaches of disciplinary rules will not normally be sufficiently serious to warrant dismissal on the first occasion or without previous warning. Examples of such offences are listed below and relate to all employees:

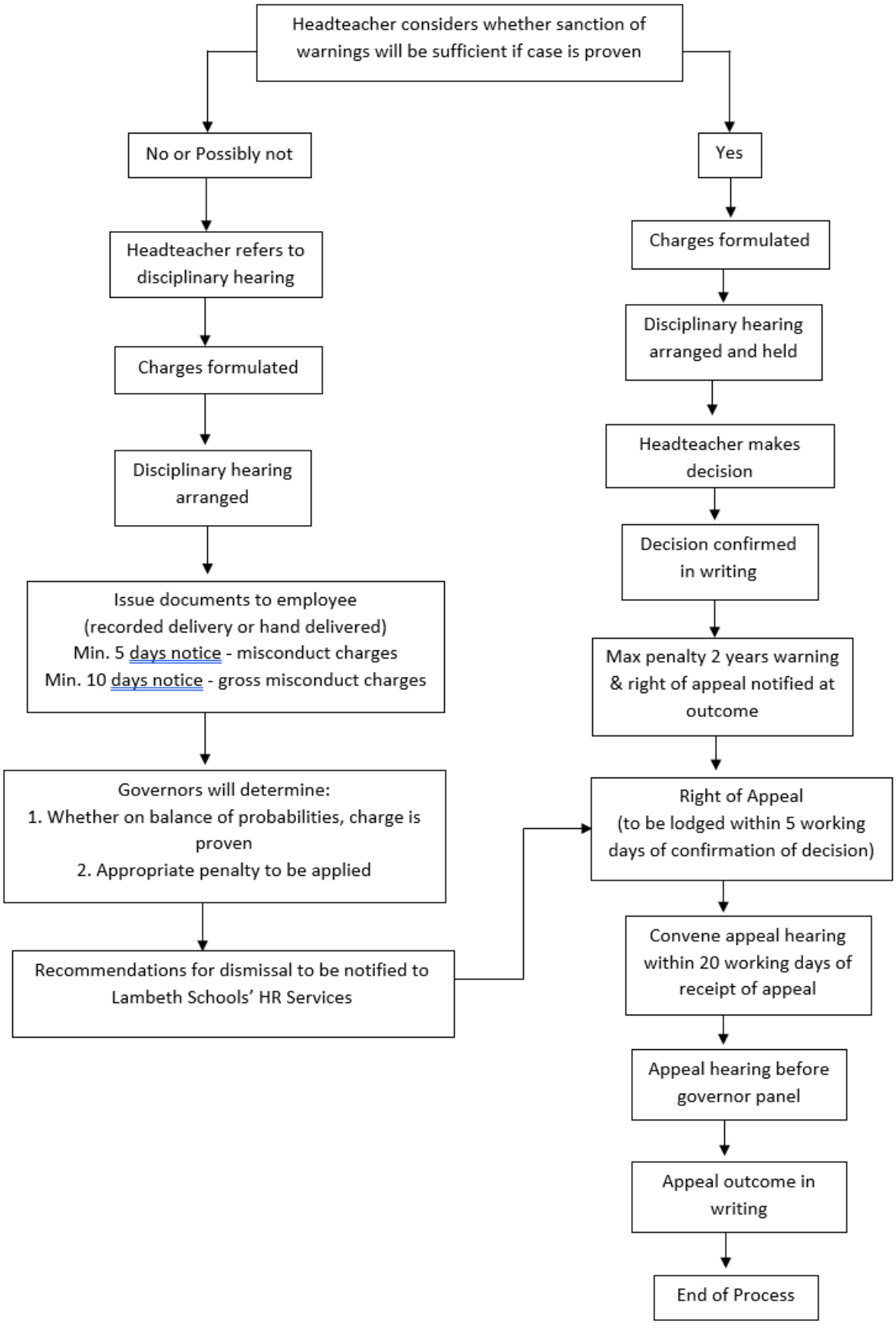
1. Refusal to obey legitimate management instruction.
2. Negligence in the performance of duties.
3. Bad time keeping including taking excessive other breaks.
4. Absenteeism, unauthorised absence and leaving the workplace without permission.
5. Misconduct in relationships with other members of staff, clients or members of the public.
6. Damage to Council/School Property.
7. Swearing, using inappropriate language or abuse of members of staff, clients or members of the public.
8. Breach of health and safety rules.
9. Being under the influence of drink or other intoxicants, whilst at work.
10. Non-compliance with sickness pay scheme or sickness policy and procedure.
11. Unauthorised use of Council/School facilities e.g. computers, telephones, photocopiers and vehicles.
12. Breaches of the Staff Code of Conduct.
13. Breach of the School or Council's Financial Regulations.

14. Mismanagement of the Council of School finances leading to significant overspend of a manager's budget.
15. Breach of whole school policies or Council policies such as policies relating to computer use, confidentiality, data protection, or dress code

Employees who are in any doubt as to the interpretation of these rules, or the Code of Conduct, should refer any question to their line manager.

Appendix 2 – Disciplinary Procedure Flowchart




Headteacher considers whether sanction of warnings will be sufficient if case is proven
No or Possibly not
Yes
Headteacher refers to disciplinary hearing
Charges formulated
Disciplinary hearing arranged
Issue documents to employee (recorded delivery or hand delivered) Min. 5 days notice - misconduct charges Min. 10 days notice - gross misconduct charges
Governors will determine: 1. Whether on balance of probabilities, charge is proven 2. Appropriate penalty to be applied
Recommendations for dismissal to be notified to Lambeth Schools' HR Services
Charges formulated
Disciplinary hearing arranged and held
Headteacher makes decision
Decision confirmed in writing
Max penalty 2 years warning & right of appeal notified at outcome
Right of Appeal (to be lodged within 5 working days of confirmation of decision)
Convene appeal hearing within 20 working days of receipt of appeal
Appeal hearing before governor panel
Appeal outcome in writing
End of Process

Appendix 3 – Version Details.

	Version date: April 2022
Section	**Summary of changes from 2009 version.**
Section 5	Information about composition of governor panels
Section 7	Updated informal resolution section.
Section 7	Removed sanction of verbal warning.
Section 8.6	Clarified entitlement to contractual pay during suspension.
Section 9.2.3	Clarified process for appointing investigator.
Section 12.3 Section 13.3	Removed reference to permanent disciplinary panel or permanent appeal panel.
Section 12.7	Reduced length of final written warning from 5 years to 3 years.
Footnotes	Statutory references updated and moved to footnote rather than body of document.
Footnotes	Different processes applicable to voluntary aided and foundation schools removed from body of document and added to footnotes.
Appendix 1	Updated disciplinary rules and added as an appendix.
Appendix 1	Breach of sickness policy and unauthorised absence added to misconduct/gross misconduct list in the disciplinary rules.
Appendix 2	Updated the flowchart.
Appendix 3	Added a version history section.
	Revised order to improve chronological flow.
	Formatting changes.
	Minor changes.