Harbour Schools Partnership

A guiding light for education

DISCIPLINARY POLICY
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1. Policy Statement

The Disciplinary Policy is intended to set out the standards of conduct and behaviour expected of all The Harbour Schools Partnership (THSP) colleagues and to ensure that all disciplinary matters are dealt with fairly and consistently.

It is intended to help and encourage employees to achieve and maintain satisfactory standards of conduct and behaviour at work in line with Trust policies, rather than primarily as a way of imposing punishment.

The Trust aims to make sure employees are aware of the consequences of failure to meet the required standards of conduct both inside and outside of the workplace.

Minor conduct or performance issues can usually be resolved informally with the Head Teacher or Line Manager (HT/LM).

This policy applies to all colleagues, regardless of length of service. However, it does not apply to casual workers, agency staff, self-employed contractors or volunteers.

This policy is based on good practice to ensure a fair and consistent approach. The application of this policy will be fair, equitable, objective and will not discriminate either directly or indirectly, on the grounds of an employee's gender, age, disability, gender re-assignment, marital or civil partnership status, pregnancy, maternity status, race (including colour, nationality and ethnic or national origins), religion or belief and sexual orientation.

This policy does not form part of the contract of employment and can be varied from time to time.

This policy and procedure does not deal with capability, performance or sickness absence issues. These are dealt with via our Capability Policy and/or the Managing Sickness Absence Policy.

Advice on the application of this policy should be sought from the People Team.

2. Responsibility for taking action

The responsibility for managing the disciplinary process within the Trust will rest with either the Executive Leadership Team (ELT), Senior Leadership Team (SLT), Trust Leadership Team (TLT) or Trust Board, who are the only employees empowered to issue warnings.

Action to remove an employee from the workplace pending the decision to suspend should be discussed with the People Services Lead.

Any dismissal must be authorised by a member of ELT, or SLT with involvement from the People Services Lead. For any dismissal of a member of the ELT, there will be involvement of Trustees.

The Trust Board are mentioned throughout this document and will be responsible for disciplinary action involving the CEO.

ELT will be responsible for disciplinary action involving a member of SLT or TLT.

3. Time Limits

The time limits included in this policy may be varied by mutual agreement. The policy makes reference to a number of 'days' within which certain actions/events are to occur. A 'day' is defined as any Monday to Friday excluding public holidays as defined by ACAS.

If a concern is raised during a period of non-term time, the timeframes indicated in the policy will commence as soon as is practicable depending on the availability of relevant and appropriate staff. Where a concern is raised immediately prior to a period of non-term time, the availability of any person(s) who may need to be interviewed as part of any investigation will be taken into consideration by both parties when mutually agreeing any required extension to the timeframes.

4. Representation

The Employment Relations Act 1999 determines that an employee has a statutory right to request to be accompanied at any disciplinary or grievance hearing. The representative must be:

- a paid official from a recognised trade union/professional association
- an official of a trade union/professional association whom the union has reasonably certified in writing as having experience of, or as having received training in acting as an employee's companion at disciplinary or grievance hearings
- an appropriate work colleague.

Friends/family members are not permitted to accompany the employee.

5. Acceptable behaviour and standards expected of staff

Examples of acceptable behaviour and standards expected of staff can be found at Appendices 5A and 5B. Examples of misconduct and gross misconduct can be found at Appendices 6 and 7.

6. Behaviour outside of work

Inappropriate and unacceptable behaviour and/or criminal offences that have occurred outside of work may be dealt with under this policy, or the Managing Allegations of Abuse Made Against Staff policy and procedure, if the employee's behaviour or activities:

- may make them unsuitable for the role they are employed to perform, e.g. failure to protect their own children
- has the potential to cause damage to the reputation of the Trust. This includes written and verbal communications and covers all types of media including newspapers, internet, and social networking sites such as Facebook, Snapchat, Instagram, LinkedIn, TikTok and X.
- identifies them as a perpetrator of domestic violence
- identifies them as behaving in a way that leads to a breakdown in working relationships
- are inconsistent with the professional standards of public behaviour expected of the role e.g. lewd behaviour, sexual misconduct, being intoxicated in public, association with illegal drugs (subject to the employer's duty of care to employees who may have substance or dependency issues).
- Identifies them as having engaged in inappropriate contact with a child, student or vulnerable adult.

A disciplinary investigation will also be carried out where behaviour outside of the work could be considered a transferable risk to the school and could lead to potential harm of a child.

7. Allegations involving children, students or vulnerable adults

All employees working with children must understand that the nature of their work and the responsibilities related to it, place them in a position of trust. Any abuse of this trust will be managed under this policy.

The Children Act 2004 places a duty on schools to safeguard and promote the wellbeing of children in their care. This includes the need to ensure that all adults who work with or on behalf of children are competent, confident and safe to do so.

Additionally, the Sexual Offences Act 2003 covers child sex offences and has specific provisions relating to care workers for persons with a mental disorder.

If any allegation involves safeguarding concerns, especially in relation to an alleged abuse of trust, the Local Authority Designated Officer (LADO) will be contacted before any further action can be taken and/or before the matter is discussed with the employee. The Headteacher can contact LADO prior to contacting the

People Services Lead, or they can seek advice from the People Services Lead first if they wish to discuss the allegation which has been made. The People Services Lead will advise the relevant Trust Education Partner or DOSI of any LADO referrals being made.

If there is reason to believe that evidence of inappropriate material and/or communications may be found on the employee's work computer and/or mobile phone, the Trust and the relevant school will be notified at the earliest opportunity by the police or the LADO. An employee's computer or phone will not be accessed until the Trust and the school has been informed. ***See Flowchart on Appendix 4***.

The HT/LM should be aware that a criminal act may have been committed, e.g. inappropriate communication with a student or vulnerable adult and therefore the evidence must be preserved.

Consideration should be given to restricting the employee's access to ICT accounts, e.g. email, and/or it may be appropriate for access to be blocked until appropriate action has been taken to secure data.

Allegations involving children should initially be managed under the Trust's Managing Allegations of abuse made against staff policy and procedure. The Disciplinary Policy may also be invoked.

8. Allegations in the public interest (whistleblowing)

There may be occasions when the allegations are made by an employee about something that is in the public interest and could be constituted as a 'protected disclosure' under the Trust's Whistleblowing Policy. Such allegations may include matters where there may have been:

- An unlawful or a criminal offence;
- a breach of a legal obligation (but not a personal contractual breach unless such breach involves a matter of public interest);
- a miscarriage of justice;
- mistreatment or abuse of a client or a member of the public for whom the school has a responsibility;
- in disregard of legislation governing health and safety at work;
- seeking undue favour over a contractual matter or a job application; or against the Trust's Financial Regulations;
- actions which amount to improper conduct or unauthorised use of public funds;
- actions which have led to or could lead to damage to the environment; or
- deliberate cover up information tending to show any of the above.

In these circumstances it may be appropriate to invoke the Trust's Whistle Blowing policy prior to or at the same time as the Disciplinary Policy. Where it appears that allegations may constitute a protected disclosure, those allegations will be referred for consideration under the Whistleblowing Policy.

9. Formal disciplinary action against trade union representatives

Disciplinary action against a Trade Union representative can lead to a serious dispute if it is seen as an attack on their functions. Whilst normal disciplinary standards apply to a Trade Union representative's conduct as a colleague, a full-time official should be notified of any action (including suspension) that the Trust takes or proposes to take.

10. Criminal Offences

Certain criminal offences may affect suitability of an employee to continue in their role with the Trust or damage reputation. If an employee is charged with a relevant criminal offence, they must inform their HT/LM as soon as possible.

The Trust will not treat notification about criminal proceedings, or a conviction (including bind overs and cautions), as an automatic reason for dismissal or for any other form of disciplinary action being taken. The Trust will decide what action to take, if any, after the matter has been reviewed the matter. The main consideration should be whether the conviction is one that makes an employee unsuitable for their job within the education sector or may affect the Trust's reputation.

A decision must be made whether to apply this policy as a result of any charge or conviction resulting from a criminal offence. This includes police cautions and/or warnings that are disclosable under the Rehabilitation of Offenders Act and the Exceptions Order 1975 Guidance on the Rehabilitation of Offenders Act 1974 and the Exceptions Order 1975 - GOV.UK

If an employee is subject to criminal investigation, the Trust will determine to what extent it needs to conduct its own investigation before deciding whether to proceed to formal disciplinary action. The Trust will not usually wait for the outcome of any prosecution before deciding what action to take (unless specifically advised otherwise by the police). However, where the investigation may hamper a police investigation or has the potential to prejudice any future court proceedings, it is essential to liaise with the police to determine the most appropriate course of action. No decision to impose a disciplinary sanction or dismiss will be taken prior to giving the employee opportunity to make representations.

If the Trust have reasonable grounds to suspect that the potential misconduct involves fraud, systems abuse, theft, or any financial irregularity, the Trust will take action as per section 20 of the Finance Policy.

Where there are allegations that appear to involve criminal responsibility or financial irregularities affecting Trust resources, the Chair of Trustees and CEO must be notified and will decide whether to refer the matter to the police or take other action in accordance with the Academies Financial Regulations procedure rules (as appropriate). The exception to this is in allegations involving Safeguarding Children and Safeguarding Adults, where separate procedures apply.

PROCEDURE

11. Minor Conduct Issues and an Informal Approach

For minor conduct issues, the Trust will adopt an informal but confidential approach to help, guide or advise employees in improving their conduct or behaviour. The Trust will only consider dealing with minor disciplinary breaches through the formal stages of the policy if the misconduct continues or the misconduct is too serious to be dealt with informally.

Where there is a concern about an employee's conduct or behaviour, the HT/LM will organise an informal meeting to discuss the concern. The purpose of any informal meeting is to improve the conduct, to identify and examine any areas of concern and to provide a reasonable opportunity for the employee to respond.

Appendix 1 – Professional Guidance should be used to guide the conversation and any actions will be recorded with an aim to support improvement in conduct. In some cases, it may be decided that additional training, coaching, and advice are required. The completed form, or professional guidance letter, must be sent to the employee and HR for personal file.

Where the behaviour causing concern may be related to an underlying relationship issue, it may be appropriate to consider mediation, to help resolve the situation rather than disciplinary action. This can be carried out by the HT/LM.

In the event that the matter cannot be resolved informally, or the matter is too serious for the informal approach to be applied, then the formal disciplinary process will follow.

Guidance and support are available from the People Team.

12. Incident Occurs/Allegations made

When an incident occurs or an allegation is made, the details should be provided to the HT/LM who will advise the People Team Lead. The HT/LM and the People Lead will discuss the way forward and make a joint decision to establish whether the incident/allegation could potentially lead to disciplinary action and may need further investigation.

In order to determine whether a full investigation is required, the HT/LM may be required to undertake an informal investigation (fact-finding exercise) to gather appropriate evidence on the matter [this is not part of the formal investigation process]. Information relating to an informal investigation can be found below.

For an allegation of abuse made against a member of staff, please refer to section 7 of this policy.

Information relating to the allegations do not have to be shared with the employee or any witnesses during the fact-finding stage. However, they will be shared if any form of action, whether further investigation or a process is required.

The HT/LM alongside the People Services Lead will ensure a decision is made as to whether the employee can remain at work, should be temporarily transferred to suitable alternative duties, or is asked to remain away from work or be suspended (see sections 17 and 18).

Interviews and discussions undertaken should follow a standard format and any interview or witness statements produced should be signed and agreed by the witness.

If evidence of further instances or further allegations arise during the investigation process, these will be added to the initial investigation and will be considered at the same time as the original allegations.

The employee who is subject to the investigation will be informed of any additional allegations being considered if a formal investigation is required.

No formal disciplinary action will be taken unless or until the allegations have been fully investigated.

Any investigation carried out under this policy will be thorough, unbiased and reasonable in the circumstances.

13. Informal/Formal Investigation Outcomes

At each stage of the investigation process the investigating officer will consider one of the following outcomes:

- Complete exoneration from the allegations made, where a no further action letter may be sent to conclude the process.
- A recommendation that there are sufficient grounds for a potential case for misconduct or gross misconduct to be made. If at the informal stage, this would progress to a formal investigation. If at the formal investigation stage, this would progress to a disciplinary hearing.

14. Investigations

Informal Investigation

If it is decided that an informal investigation (fact finding) exercise is required, this will be to establish the grounds of the case and whether there could be a case to answer.

This should be done by someone who has not been involved in the matter at this stage and should normally be the HT/LM. The informal investigating officer should not have had any previous involvement in the circumstances of the allegation, nor close relationship with any party involved nor any vested interest and will be more senior than the employee being investigated.

The aim of this is to avoid a lengthy disciplinary process being followed when there are no grounds for a disciplinary and the matter could be dealt with in an informal manner. There is no right to trade union representation at an informal stage. However, if the employee is a member of a Trade Union, it is advised that the employee contacts them.

Where necessary, more than one informal investigating officer may be involved.

The findings from the informal investigating officer will be reported to the appropriate member of the People team (and the HT/LM if the task has been delegated). A joint decision is made involving the People Services Lead as to the action that is required.

Actions following the fact-finding exercise could be:

a) The HT/LM will deal with the matter informally, Professional Guidance may be issued at this stage, see section 11 of this policy.

b) A formal investigation will be launched. The HT/LM and People Services Lead will decide who the investigating officer will be. The People Team will support with relevant paperwork at each stage.

If the allegation/s are of a safeguarding nature, the HT/LM must notify the People Services Lead who will inform the relevant member(s) of ELT as soon as possible following the Managing Allegations of abuse made against staff policy and procedure, also see section 7 of this policy.

Formal Investigation

Where a matter cannot be resolved informally and/or there is potentially a case to answer then a formal investigation should take place.

Investigations which are being investigated as a potential Gross Misconduct offence may be investigated by an independently appointed consultant, this will be arranged by the People Services Lead or a member of ELT.

The investigating officer should ensure that where it is appropriate and will not have an impact on any further investigations, the employee is notified of the allegation/s verbally and in writing as soon as possible, and prior to the formal investigation meeting. A formal letter is required to follow up this conversation which will be prepared by the People Team.

Any meetings and discussions as part of an investigation are solely for the purpose of collecting information and no disciplinary action will be taken without a disciplinary hearing.

There will be 5 working days' notice of any formal investigation meeting, employees may be accompanied at the formal investigation meeting by a trade union representative, or a work colleague. The companion does not, however, have the right to answer questions on the employee's behalf or prevent the employer from asking questions as part of the investigation process.

An investigation meeting can be postponed once if a TU representative is not available, an alternative date would then be planned.

The amount of investigation involved will vary depending on the allegations in question and the circumstances of the case.

Investigations will be dealt with as confidentially as is reasonably practicable and sensitively. If an employee is found to be discussing the case with other colleagues beyond their companion this may constitute separate disciplinary action.

The formal investigating officer should be a person with no prior involvement in the matter under investigation (this includes informal investigation) and could be the HT/LM line manager, a senior person in the school or an ELT, SLT, or TLT member or Trust Board member if the employee is the CEO.

It is the responsibility of the investigating officer to produce a report with relevant documents such as witness statements, to the HT/LM (if the task has been delegated) within the agreed timescales. A member of the People team will support the investigating officer with their tasks.

The investigating officer will recommend whether:

- no action is necessary
- the matter should be dealt with outside this policy

- the matter should be referred to a disciplinary hearing.

The People Team are available to support with report writing in relation to process.

15. Interviewing Children

If children are to be interviewed as part of an investigation, their parents/carers should be advised and consent obtained in advance. Interviews should not take place with children unless they are accompanied by a suitable person or parental consent has been given to them being interviewed unaccompanied.

The employee's trade union/professional association representative may be present during any interview if this does not jeopardise the integrity of the investigation. This will preclude the child/vulnerable adult being interviewed more than once and negate the requirement for them to attend a disciplinary hearing. If the matter does proceed to a hearing, the employee will be provided with notes of the meeting as part of the investigation report.

16. Non- attendance

If an employee fails to attend a meeting or hearing under this policy through circumstances beyond their control, such as certified illness, an alternative time and date may be offered. Alternatively, they may submit a written statement or nominate a representative to attend on their behalf.

Where an employee is persistently unable or unwilling to attend the meeting/hearing it will proceed in their absence and a decision based on the evidence available will be made.

A failure to attend a pre-arranged meeting or hearing may also lead to action under this policy.

17. Remain away from work/sending home

An employee may be instructed by the HT/LM to remain away from the workplace or leave the workplace immediately and stay away on normal pay until further notice. This will only be done in circumstances when there appears to be an issue which may place the employee or others at risk or where there may be a detrimental impact if the employee remains in the workplace.

The school will need to consider if it is necessary to ask for work equipment (keys, phones, ID badge etc) to be returned or access to ICT systems etc. restricted. When sending home, the HT/LM will ensure that the employee can get home safely.

The decision and reasons for sending home should be discussed with the People Services Lead and confirmed to the employee in writing as soon as possible. A member of the People team will support with this letter.

Following a review of the information available, a decision about whether to formally suspend the employee should then be made by those with appropriate authority as soon as possible and confirmed to the employee in writing. See below.

18. Suspension

In some cases of alleged misconduct gross misconduct, an employee may need to be suspended from work while the investigation or disciplinary procedure (or both) are carried out.

Alternative working arrangements should be considered as an alternative to suspension and this should be discussed with the People Services Lead. A suspension checklist will be completed to fairly assess the situation to arrive at a decision regarding whether or not to suspend an employee.

If there are no suitable alternative duties that the employee can undertake, an employee may be suspended on normal pay when:

a. this may facilitate a more objective investigation

b. the allegation(s), if found, is sufficiently serious that it could constitute gross misconduct and therefore could lead to a dismissal
c. the employee is the subject of investigation by the police and the alleged offence is considered relevant to the duties of the employee
d. it could be prejudicial to the school's/Trust's interests if the employee remains at work
e. there may be a significantly detrimental impact on colleagues
f. there is a need to prevent access to any records or systems
g. there will be media interest/publicity that may negatively affect the school in some way
h. where there is a reasonable belief that the employee's continued presence at work may put themselves or others at risk
i. where relationships have broken down.

Depending on the circumstances, an employee may be suspended from work on full pay during the investigation; However, if the employee is prevented from doing their job because a third party imposes criminal, legal or any other restrictions then this would be without pay.

Following the completion of the checklist and discussion with the People Services Lead, it is the responsibility of a member of the Trust Board, ELT, SLT or TLT to suspend employees and then lift the suspension. In all cases this would be confirmed in writing, stating the reasons why the employee has been suspended.

A decision to suspend should not be made unless there are reasonable grounds to do so. It is important that any decision to suspend an employee can be justified and that evidence of considerations of alternatives to suspension, and why they were thought not appropriate, can all be demonstrated.

All suspensions must be authorised by a member of the Trust Board, ELT or SLT.

During a period of suspension an employee should be assigned a wellbeing support person, who is neutral from the investigation/disciplinary process, to ensure they feel supported. The person who suspended the employee will advise on the wellbeing support contact details.

Whilst on suspension, the Trust Board, ELT, SLT or TLT member will review the suspension with the People Team Lead every two weeks, to check the progress and decide if the suspension needs to continue. Suspension or alternative arrangements should be for as short a time as possible.

While suspended, employees should not visit any THSP premises or contact any colleagues, students or parents, unless authorised to do so. Authorisation must be gained from a member of the Trust Board, ELT, SLT or TLT.

During a period of suspension, the employee should remain available to attend requested meetings in relation to the investigation, disciplinary or other work related meetings as requested.

Suspension is not considered to be disciplinary action or a presumption of guilt and is intended as a neutral act, for the purpose of protecting all parties during the process.

19. Disciplinary Hearing

Employees will be given 5 working days' written notice of the hearing by the People Team.

The written notice of the hearing will include sufficient information about the allegations which appears to justify disciplinary action and its possible consequences to enable preparation. Copies of relevant documents, a report and witness statements will be provided to all parties at least 5 working days prior to the date of the hearing.

The written notice will also the employee's right to request to be accompanied and that the hearing may take place in the employee's absence if they fail to attend without providing a satisfactory explanation.

The hearing will be chaired by a member of the Trust Board, ELT, SLT or TLT who has not been involved in the investigation process.

A representative from the People Team will be present at all Hearings to advise all parties on policy and process.

If represented, with the agreement of the employee, the companion is allowed to address the hearing, to put and sum up to the case. They may also request an adjournment and ask questions of anyone present, with the agreement of the employee. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

Other than confirming that all parties have the same documentation it would not normally be necessary to read out the content of the documentation in full.

Employees should inform the Trust as early as possible if there are any relevant witnesses they would like to attend the hearing or any documents or other evidence they wish to be considered.

Copies of any relevant evidence intended to be referred to must be submitted to the hearing chair, at least 5 working days before the hearing.

Where employees are absent due to sickness whilst a disciplinary matter is pending, the Sickness Absence Policy will apply as normal. Being absent from work due to sickness will not automatically stop the disciplinary procedure progressing.

At the hearing, the employee will be given the opportunity to respond to the allegation(s), call any witnesses, if relevant, and present their case to the hearing chair.

Following consideration of all the evidence, the hearing chair will adjourn the hearing to make their decision. They will come to a view regarding the validity or otherwise of the allegation(s) and decide what action should be taken.

An outcome letter will be prepared by the People Team and submitted in writing within 5 working days of the disciplinary hearing, fully outlining how a decision has been made. The hearing chair will sign the letter and arrange for it to be posted recorded delivery.

20. Disciplinary action and dismissal

The hearing chair should act in good faith. In disciplinary cases the standard of proof required is the balance of probability, i.e. a judgement of whether it is more probable than not that misconduct (or gross misconduct) took place. The hearing chair should take into account any mitigating circumstances given by the employee.

The usual penalties for misconduct or poor behaviours are:

Non- Formal Action

a) take no action

b) offer Professional Guidance as to the required standard of behaviour and inform the employee of the consequences of not achieving the required standard. Professional Guidance is not a formal disciplinary sanction

Formal Action

a) issue a verbal warning

b) issue a formal written warning if there has been either a repeated minor breach of conduct, or a first but more serious breach of conduct

c) issue a final written warning if there has been an insufficient response to previous warnings and conduct is still unsatisfactory or in the case of a first but sufficiently serious breach of conduct

d) issue the employee with notice of dismissal if, following a final written warning, conduct remains unsatisfactory and the employee still fails to reach or maintain the prescribed standard; or in the case of a first but sufficiently serious breach of conduct or if the circumstances of the matter justify dismissal for some other substantial reason

e) dismiss the employee because a statutory bar results in the employment being unable to continue

f) dismiss the employee summarily without notice and without there having been any previous disciplinary warnings when there has been gross misconduct.

Formal Action (Some Other Substantial Reason)

There may be occasions, following a fair procedure, where a dismissal for some other substantial reason (SOSR) is considered. In these circumstances the hearing chair will ensure that they act reasonably in dismissing the employee taking into account all of the circumstances.

There is no set definition of what an SOSR reason is, however, common examples can include (but are not limited to):

- A breakdown in trust and confidence
- Conflict(s) of interest/Protection from competition
- Reputational risk
- Where there are concerns relating to the safeguarding of children, but where the employer does not have grounds for a misconduct dismissal.

Details of spent warnings shall remain in personal files but shall be disregarded for the purpose of any future disciplinary proceedings, except in exceptional circumstances e.g., where they demonstrate patterns of behaviour which give rise for concern.

Substantiated allegations of harm to the safety and wellbeing of children must be kept in their confidential personnel file in HR. The record should be retained until the individual has reached normal retirement age or for a period 10 years from the date of the allegation, if that is longer. The record will comprise a comprehensive summary of the allegation, details of how the allegation was followed up and resolved, including a note of any action taken and decisions reached. The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information about an allegation that did not result in criminal conviction and will help to prevent unnecessary reinvestigation, if an allegation re-surfaces. This will be actioned by the Hearing Chair and relevant member of the People Team.

Where action results in the issue of a warning of any type, there should normally be a specified period that the warning remains current, e.g. 6 months for a verbal warning, 12 - 18 months for a written/final written warning. It should be made clear to the employee that further unsatisfactory conduct may result in further disciplinary action which could lead to dismissal.

After the specified period the warning will be considered spent for disciplinary purposes. However, if the warning relates to safeguarding children or vulnerable adults this sanction may be referred to in employment or other references that the school are required to provide - if the role involves responsibility or contact with children. This may be the case even where the warning is spent, as the school's safeguarding responsibilities would take precedence, although discretion will be applied to determine if this is appropriate.

Where a warning/final written warning or dismissal is the outcome, the employee must be informed of their right of appeal and where to send the appeal. See section 21.

21. Appeals

Where disciplinary action has been taken, if dissatisfied with that decision, employees can appeal. Appeals must be in writing and set out the grounds including all the information to rely on at the appeal hearing.

The action taken at the disciplinary hearing will remain in force pending the outcome of the appeal.

The written appeal must be submitted in writing to the People Services Lead within 5 working days of receipt of the written outcome if that decision made at the disciplinary hearing is to issue the employee with any sanction other than a verbal warning.

An employee may appeal on the following grounds:

1. the sanction given was too harsh given the circumstances
2. the procedure was not fairly or correctly applied
3. new information has come to light that would directly affect the decision made at the hearing.

The People Services Lead will then arrange for an Appeal Hearing to take place.

The Appeal will be heard by a member of the Trust Board, ELT, SLT or TLT who has not previously been involved in the process and who is senior to the employee who has appealed.

A minimum of five days' notice will be given to allow for preparation.

Evidence presented at the Appeal Hearing must relate to any of the three reasons given above and must enable the assessment of whether or not the allegations against the employee were accurate, justified and substantiated and whether the disciplinary action was appropriate in all the circumstances.

The appeal is not a re-hearing of the previous panel. It is a review of the process and/or policy that underpinned the previous decision or new evidence that could not be submitted during the initial hearing as it was not available at the time. Additional witnesses may be called but only where the witness is presenting new evidence that could not be submitted during the initial hearing as it was not available at the time.

The outcome of an appeal hearing may be to:

- adjourn and refer the matter back to the hearing chair if significant new information/evidence is provided, which was not available previously, and may change the original decision.
- conclude a procedural irregularity occurred and determine whether this had an impact on the decision-making process and outcome. If so, determine an appropriate sanction and make a recommendation to rectify the situation.
- uphold the appeal and determine an alternative sanction/appropriate course of action
- reject the appeal and confirm that the original decision stands.

The decision will be given verbally to all parties at the end of the appeal hearing unless valid reasons exist not to do so. The decision will be confirmed in writing to the employee within five days. The process ends with the decision of the appeal chair.

The appeal hearing will, where possible, be held by a member of the Trust Board, ELT or SLT who has not previously been involved. Employees may bring a work colleague or trade union representative with them to the appeal hearing.

The appeal hearing is not a re-hearing of the disciplinary, the purpose is for the appeal the employee makes to be heard and where applicable any questions of the original disciplinary chair to be made.

Where an appeal against dismissal is upheld, the notice issued to the employee will be retracted and the employee will be reinstated.

22. Reporting misconduct to appropriate professional bodies

Where there are cases which could potentially call into question an employee's professional conduct, the HT/LM should ensure that they follow the appropriate procedure for reporting concerns to the relevant registered body. This will ensure that the body can investigate the individual's ability to carry out their professional duties or take other appropriate action in the circumstances. Further information on making a referral can generally be found on the professional body's website. Where a referral is necessary, this should be made at the start of the formal process.

Cases of unacceptable professional conduct by a teacher should be reported to the Teacher Regulations Agency. 'Unacceptable professional conduct' is defined as 'conduct which falls short of the standard expected of a registered teacher… and is behaviour which involves a breach of the standards of propriety expected of the profession.'

23. Disclosure and Barring Service (DBS)

The primary role of the Disclosure and Barring Service (DBS) is to help employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children.

The Safeguarding Vulnerable Groups Act (SVGA) 2006 places a duty on employers of people working with children or vulnerable adults to make a referral to the DBS where an employer has dismissed or removed a person from working with children or vulnerable adults (or would or may have if the person had not left or resigned etc.) because the person has:

- been cautioned or convicted for a relevant offence; or
- engaged in relevant conduct in relation to children and/or vulnerable adults, i.e. an action or inaction (neglect) that has harmed a child or vulnerable adult or put them at risk of harm; or
- satisfied the Harm Test in relation to children and/or vulnerable adults i.e. there has been no relevant conduct (i.e. no action or inaction) but a risk of harm to a child or vulnerable adult still exists.

The referral will enable the DBS to consider whether or not the individual should be barred from working with children and/or vulnerable adults and should be made as soon as possible after an employee has been dismissed or removed from working with children or vulnerable adults (or would have been if they had not resigned).

24. Management responsibilities

HTs/LMs/hearing chairs are required to ensure that each employee is aware of this policy and understands both the professional conduct that is required of them and the consequences of not meeting the required standards of behaviour. Action should be taken consistently to identify concerns and reinforce standards of behaviour before it becomes necessary to take formal action. The Trust will manage the process effectively, fairly and reasonably if it is necessary to use this policy.

25. Employee Responsibilities

Employees are required to conduct themselves appropriately and to observe the rules, regulations and instructions adopted by their employer and carry out their role consistently with any standards set by their appropriate professional body. Employees have a responsibility, where necessary, to take any steps required to address their behaviour.

26. Professional Standards

In this policy where there is reference to "relevant professional standards" this refers to any standards applicable to the post(s) and the career stage of the post holder (e.g. the Teachers' Standards are applicable to all teachers including the Head Teacher).

27. Raising a grievance during the application of this policy

If an employee is currently being managed under this policy and has a complaint related to either the person applying it and/or its application, the employee will raise a complaint under this policy which will be

investigated. It may be necessary to suspend the application of the policy while the complaint is being looked into. Any delay to the application of this policy to deal with an employee's complaint should not exceed 10 days, unless by mutual agreement.

If an employee raises an unrelated complaint, then the employee should use the Grievance Policy and Procedure. As the matter is unrelated, there will be no need to put any process currently being applied on hold as the complaint can be dealt with in parallel.

28. Confidentiality

Any parties affected by or involved in the application of this policy will be expected to maintain an appropriate level of confidentiality. Breaches of confidentiality will be taken seriously, especially if they hinder the application of the policy. Failure to maintain confidentiality may result in action being taken under this policy.

Disclosure of information may also be a breach under the General Data Protection Regulations (2018) and the Trust Confidentiality Policy and may lead to action being taken under the provisions of the Data Protection Act, in addition to action being taken under this policy.

29. Recording of information

A written record must be made of all interviews and meetings held during the application of this policy. Those involved in each meeting will be provided with a copy of any records made. Recording devices are not permitted in any of the interviews, informal or formal meetings.

The investigating officer will ensure there is a full and comprehensive file of the process which should include all statements, records and evidence. At the end of the process the file should be passed to the People Partner who should ensure that it is stored confidentially.

All records will be kept confidentially and retained in accordance with the General Data Protection Regulations 2018.

30. Support for Employees

Employees are encouraged to seek support from their trade union/professional association in the first instance. Procedural guidance relating to this policy is available from the People Lead or People Partner.

Occupational Health support is also available, if necessary, this should be made by the employee's HT/LM or the People Team.

There are a number of different places where employees can access support:

Education Support Partnership:	Tel: 0800 0562561 https://www.educationsupport.org.uk/
Talkworks:	Tel: 0300 555 3344 https://www.talkworks.dpt.nhs.uk/

31. HR Advice

The People Team Lead can provide advice and support to any member of the Trust Board, ELT, SLT or TLT involved in the application of this policy at any stage. This includes attendance at meetings/hearings where required.

APPENDIX 1 PROFESSIONAL GUIDANCE FORM

PROFESSIONAL GUIDANCE FORM Page 1 of 2	
1.Member of Staff being Interviewed:	
Name	
Position	
2. Interviewing Officer:	
Name	
Position	
3. Purpose of confirming Professional Guidance: Reason for discussing professional guidance e.g. failure to adhere to teacher standards, timekeeping, using offensive language, disrespect of a colleague. Include leaders' facts and observations prior to this meeting. **Full details must be given here:**	
4. Comments from employee: (*this section must be completed)*	
.	

PROFESSIONAL GUIDANCE FORM Page 2 of 2

5. Action to be taken:

6. The statements below must be read to the employee at this meeting:

Confidentiality Clause:
The content of this meeting is to be kept confidential and not to be discussed with other colleagues. You are free to discuss this meeting content with recognised trade union representatives, for the purpose of support relating to the content of the professional expectations discussed and documented herein.

Disciplinary Action:
Please note that our meeting was intended informally to assist you in improving your conduct/practice and does not form part of the formal disciplinary procedure. Nevertheless, I must advise you that a repeat of similar misconduct or poor practice, or any other instance of misconduct of any kind, may result in formal disciplinary action being taken against you. I hope that our discussions will lead to improvements in your conduct/practice so that such action will not be necessary. A copy of this letter will be retained on your personnel file.

7. Interviewing Officer:

Signature		Date	

8. Interviewee:

Signature		Date	

APPENDIX 2 DISCIPLINARY HEARING AGENDA

1. Preliminaries

- Introductions - hearing chair, employee, representative, HR support, note taker
- Where witnesses are called, they are only present for the period of questioning
- Notification to all present to switch off mobile phones and other electronic devices for the duration of the hearing including any adjournments. Where participants leave the room for adjournments/deliberations, they must take all personal belongings with them

2. **Management Case**

- The investigating officer/management representative presents management case and calls witnesses for the management case (if necessary)
- Employee/representative have the opportunity to question the investigating officer/management representative and witnesses
- Hearing chair has the opportunity to question the investigating officer/management representative and witnesses
  - Further questions, if necessary, from the Employee/representative
  - Further questions, if necessary, from hearing chair.

3. **Employee's case**

- Employee/representative presents their case and calls witnesses for the employee's case
- The investigating officer/management representative, HR Support has the opportunity to ask questions of the employee/representative and witnesses
- Hearing chair has the opportunity to ask questions of the employee/representative and witnesses
- Further questions, if necessary, from investigating officer/management representative, HR Support
- Further questions, if necessary, from hearing chair

4. **Summing up**

- The investigating officer/management representative has the opportunity to sum up their case (no new evidence to be submitted at this point)
- The employee/representative has the opportunity to sum up their case (no new evidence to be submitted at this point)

5. **Adjournment and deliberation of whether misconduct has taken place**

- The investigating officer/management representative and HR support to withdraw
- The employee/representative to withdraw
- Hearing chair considers the facts presented to them and to determine whether misconduct has taken place
- Investigating officer/management representative, HR support and employee/representative to be recalled and the determination of the hearing chair on whether misconduct has occurred to be conveyed verbally.
- If valid reasons exist not to advise the employee verbally, then the decision will be conveyed to the employee within five days of the hearing and confirmed in writing.
- Where action results in the issue of a warning of any type, there should normally be a specified period that the warning remains current, e.g. 6 months for a verbal warning, 12 - 18 months for a written/final written warning. It should be made clear to the employee that further unsatisfactory conduct may result in further disciplinary action which could lead to dismissal.

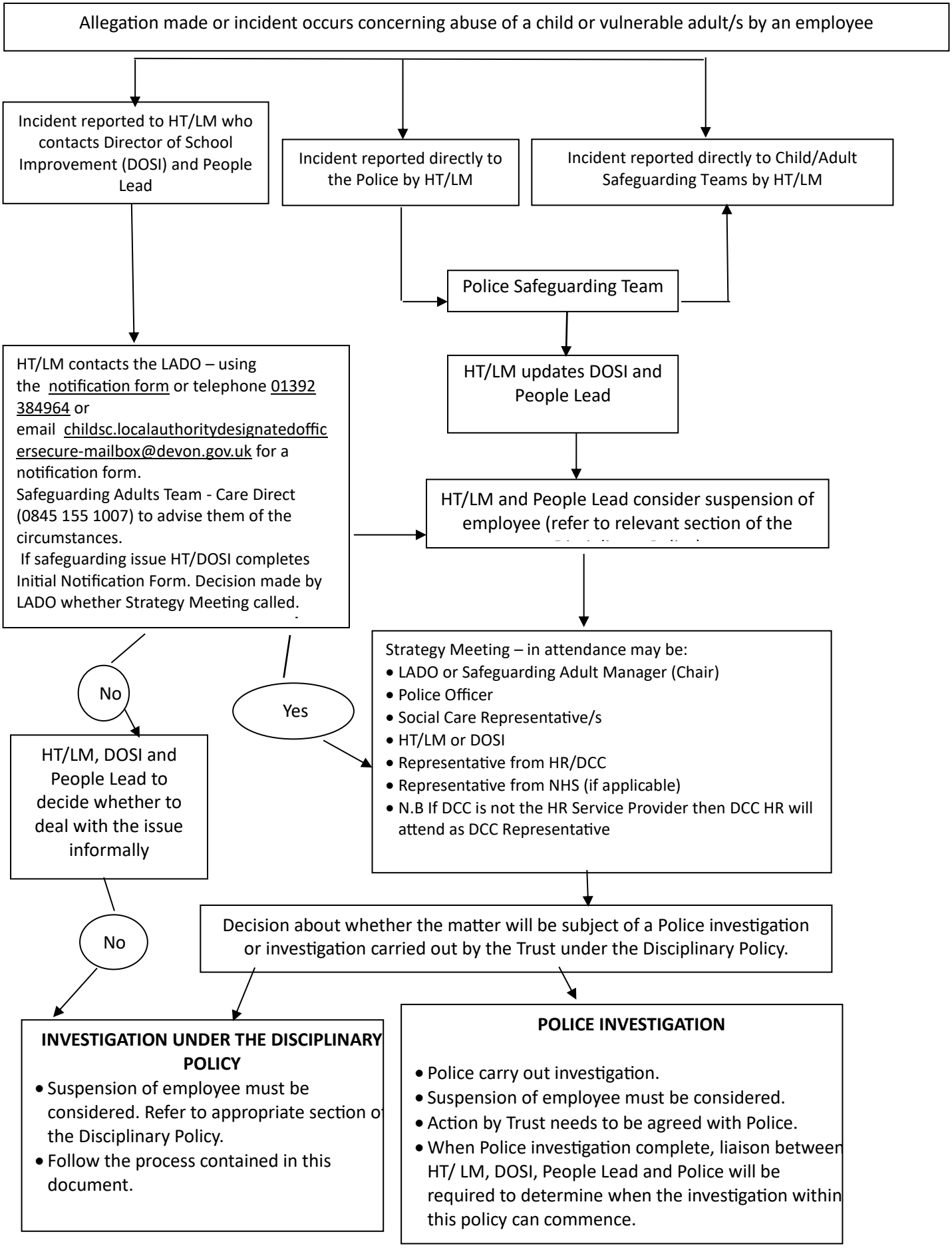
APPENDIX 3 DISCIPLINARY APPEAL HEARING AGENDA

1. **Preliminaries**
   - Introductions – hearing chair, employee, representative, HR support, note taker
   - Explanation by hearing chair of the appeal hearing process
   - Where witnesses are called, they are only present for the period of questioning
   - Notification to all present to switch off mobile phones and other electronic devices for the duration of the hearing including any adjournments. Where participants leave the room for adjournments/deliberations, they must take all personal belongings with them.

2. **Running order**
   - Employee/representative to put their case and call witnesses where required
   - HR support to have the opportunity to ask questions of the employee/representative/witnesses
   - Appeal hearing chair to have the opportunity to ask questions of the employee /representative/witnesses
   - Chair of the initial disciplinary hearing to have the opportunity to put their case and answer questions on their decision, and to call any witnesses as required
   - Employee/representative to have the opportunity to ask questions of the employer representative
   - Panel to have the opportunity to ask questions of the employer representative
   - Chair of the initial disciplinary hearing to sum up their case if required (no new evidence should be submitted at this point)
   - Employee/representative to sum up their case for appeal (no new evidence should be submitted at this point)
   - Employee/representative and chair of the initial disciplinary hearing/HR support to withdraw taking all personal belongings with them.
   - Appeal hearing chair to consider the facts presented to them and reach a determination which they will relay to all parties verbally. If valid reasons exist not to advise the employee verbally, then the decision will be conveyed to the employee within five days of the appeal hearing and confirmed in writing.
   - The appeal hearing may also be adjourned at the deliberation stage in order to allow for further investigation if the panel feels that there are points that need clarification. An opportunity may be given to re-examine the evidence/witnesses.

   The decision of the appeal panel is final.

APPENDIX 4 SAFEGUARDING FLOWCHART



APPENDIX 5A - EXAMPLES OF ACCEPTABLE BEHAVIOUR

People behave acceptably when they:

- Afford dignity, trust and respect for everyone and themselves.
- Have awareness of the effects of their behaviour on others and only make reasonable and manageable demands.
- Communicate honestly and openly, clearly stating what they need and expect of others.
- Provide and are receptive to honest feedback based on evidence.
- Challenge discriminatory language and behaviour in an appropriate way.
- Carry out their role consistently with any standards set by their appropriate professional body.
- Are aware of their role in addressing Prejudice Related Incidents and challenge discriminatory language and behaviour in an appropriate way.
- Take steps to address any unacceptable behaviour.
- Observe the rules, regulations and instructions adopted by the Harbour Schools Partnership.

In addition to the above, the expectations of those employed in management/senior leadership roles are to:

- ensure the standards expected from employees are role-modelled, monitored and managed effectively
- effectively manage all applicable statutory and non-statutory obligations
- appropriately manage all alleged incidents and/or allegations.

Examples of Unacceptable Behaviour:

- Using aggressive language, threatening, ridiculing, ignoring people or repeatedly shouting.
- Telephoning people at home unnecessarily (for example, demanding work when the person is absent due to sickness or ill health).
- Making unreasonable demands on a colleague.
- Focusing only on weaknesses.
- Bringing up details of someone's private life inappropriately.
- Leaving impossibly long lists of tasks and making unreasonable demands.
- Criticising people or maliciously gossiping about them in their absence.
- Ridiculing or demeaning someone – picking on them or setting them up to fail.
- Comments or jokes, about distinctive peoples and nationalities.
- Frequent comments about aspects of physical appearance or using forms of address that are demeaning.
- Threatening or implying, without reason, that, as a colleague, you will cause the person to lose their job or fail to get a promotion or suffer some other form of career difficulty or financial disadvantage.
- Coercing someone to join the harassment/bullying of another person.
- Excluding or marginalising someone or refusing to engage with them appropriately.
- Breaching confidentiality.

This list is not exhaustive. It is simply a guide to help individuals consider their own and others' behaviour and gain understanding of what behaviours are unacceptable in the workplace.

Appendix 5B - STANDARDS EXPECTED OF STAFF

The standards expected of all staff include but are not limited to:

- maintaining standards of behaviour in keeping with the interests and standing of the Trust. This includes behaviour outside of working hours and in any form that is visible to the public, including social networking or any other electronic medium
- devoting full attention while at work to the duties of their position and in doing so acting with responsibility, good judgement and in good faith
- carrying out any reasonable instructions given by those with authority to do so
- not divulging to any unauthorised person or making personal use of confidential information connected with the Trust, either intentionally or through negligent behaviour
- observing the rules, regulations and instructions adopted by the Trust
- following appropriate safeguarding procedures
- participating fully in any investigation into alleged incidents and/or allegations including attending meetings as directed
- using electronic communications appropriately
- ensuring that information brought to light as a result of any investigation is treated with discretion
- carrying out their role consistently with any standards set by their appropriate professional body
- taking steps to address any unacceptable behaviour
- treating colleagues and third parties with dignity and respect.

In addition to the above, the expectations of those employed in management roles are to:

- ensure the standards expected from all staff are role-modelled, monitored and managed effectively
- effectively manage all applicable statutory and non-statutory obligations
- appropriately manage all alleged incidents and/or allegations.

This list is not exhaustive.

APPENDIX 6 EXAMPLES OF MISCONDUCT

Misconduct

The following are examples of matters that will normally be regarded as misconduct and will be dealt with under the Disciplinary policy, including conduct at work, whilst working from home or outside of work, please also refer to the Trust Code of Conduct.

Misconduct is where an employee breaks specific rules about behaviour or conduct. It is where conduct falls below expected standards and is usually wilful. There may be occasions when negligent conduct amounts to misconduct.

1. Using aggressive language, threatening, ridiculing, ignoring people or repeatedly shouting;
2. Telephoning people at home unnecessarily (for example, demanding work when the person is absent due to sickness or ill health);
3. Focusing only on weaknesses;
4. Bringing up details of someone's private life inappropriately;
5. Leaving impossibly long lists of tasks and making unreasonable demands;
6. Criticising people or maliciously gossiping about them in their absence;
7. Ridiculing or demeaning someone – picking on them or setting them up to fail;
8. Comments or jokes, about distinctive peoples and nationalities;
9. Frequent comments about aspects of physical appearance or using forms of address that are
10. demeaning;
11. Threatening or implying, without reason, that, as a colleague, you will cause the person
12. to lose his/her job or fail to get a promotion or suffer some other form of career difficulty
13. or financial disadvantage;
14. Coercing someone to join the harassment/bullying of another person;
15. Excluding or marginalising someone or refusing to engage with them appropriately.
16. This list is intended as a guide and is not exhaustive.

APPENDIX 7 EXAMPLES OF GROSS MISCONDUCT

Gross Misconduct

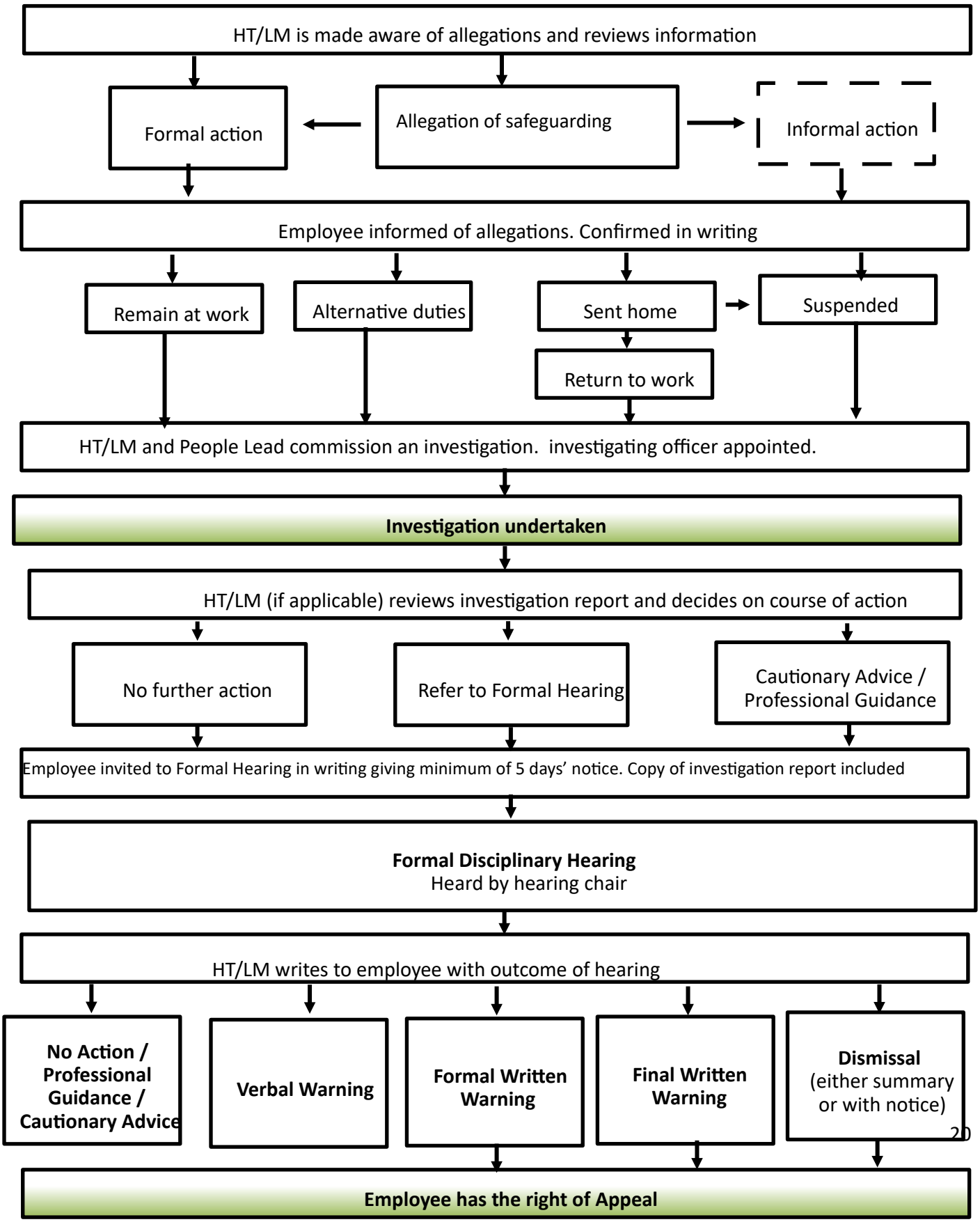
Gross misconduct is a serious breach of contract and includes misconduct which, in the opinion of our Trust, is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between our Trust and the employee. Gross misconduct will be dealt with under the Disciplinary Procedure and may lead to dismissal without notice or pay in lieu of notice (summary dismissal). The following are examples of matters that are normally regarded as gross misconduct and apply whilst in work, working from home or outside of work:

1. Theft or unauthorised removal of property from the school or its stakeholders a colleague, contractor, pupil or member of the public;
2. Fraud, forgery or other dishonesty, including but not limited to fabrication of expense claims and time sheets, misrepresentation of sickness absence including fit notes from the GP, pupil's work, examinations or assessments;
3. Actual or threatened violence, or behaviour which provokes violence;
4. Deliberate damage to the buildings, fittings, property or equipment of the Trust, or the property of a colleague, contractor, pupil or member of the public;
5. Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries
6. Serious failure to follow our Trust's child protection procedures;
7. Behaving in a way, either inside or outside of work, which could cause harm to a child, or could indicate that you pose a risk of harm to children/may not be suitable to work with children;
8. Making a false declaration or failing to disclose information in relation to the disqualification from childcare requirements, or becoming disqualified from providing childcare (Primary only);
9. Serious misuse of the Trust's property or name;
10. Deliberately accessing internet sites at work or at home, using School equipment, which contain pornographic, offensive or obscene material;
11. Repeated or serious failure to obey instructions, or any other serious act of insubordination;
12. Bringing the Trust into serious disrepute; Being under the influence of alcohol, illegal drugs or other substances during working hours or not being capable of fulfilling your duties because of the effects of alcohol or illegal drugs or other substances;
13. Causing loss, damage or injury through serious negligence;
14. Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
15. Unauthorised access, use, disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
16. Acceptance of bribes or other secret payments;
17. Conviction or caution for a criminal offence that in the opinion of the Trust may affect our reputation or our relationships with our staff, pupils, parents or the public, or otherwise affects your suitability to continue to work for us;
18. Possession, use, supply or attempted supply of illegal drugs;
19. Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
20. Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
21. Giving false information as to qualifications or entitlement to work (including immigration status);
22. Harassment of, or discrimination against, employees, pupils, parents or members of the public, related to any of the protected characteristics contrary to our Equality Policy.
23. Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
24. Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
25. Making untrue allegations in bad faith;
26. Victimising a colleague who has raised concerns, made a complaint or given evidence information under the Whistleblowing policy, Grievance Policy, Disciplinary Policy or otherwise;
27. Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of email and the internet) contrary to our ICT policy;
28. Undertaking unauthorised paid or unpaid employment during your working hours;
29. Making covert recordings of colleagues or managers.

This list is intended as a guide and is not exhaustive.

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

APPENDIX 8 PROCEDURE FLOWCHART



APPENDIX 9 SUSPENSION CHECKLIST

SUSPENSION DECISION FORM – page 1 of 3

Name of Employee	
School	
Role	
Date	
What is the reason for proposed suspension? Why are you considering suspension?	
1. Has an allegation of misconduct been made? 2. Is it on medical grounds? 3. Is there a workplace risk to an employee who is a new or expectant mother?	
Does the allegation involve children?	
Is a DBS referral required? *Referrals should be made as soon as possible, and ordinarily on conclusion of an investigation, when an individual is removed from regulated activity. This could include when an individual is suspended, redeployed to work that is not regulated activity – KCSIE 2025*	
Is the allegation regarding a transferrable risk?	
Is the employee aware of the allegation?	

Page 2 of 3 What other work locations and/or duties been considered?	
Have all risks to employee and others been considered?	
DECISION TO SUSPEND: **YES / NO** **HEADTEACHER NAME:** **SIGNED:** **DATE:** *When considering the suspension of an employee, the Headteacher should inform their Trust Education Partner and the People Services Lead*	

IF DECISION HAS BEEN MADE **NOT** TO SUSPEND, COMPLETE THE FOLLOWING SECTION

Has employee been made aware of the allegations?	
If necessary, has the employee been informed of who the Investigating Officer is?	
Detail any adjustments being made to the employee's role, supervision measures, work location.	
Has the employee been informed of any adjustments being made?	

IF DECISION HAS BEEN MADE **TO SUSPEND**, COMPLETE THE FOLLOWING SECTION

Has employee been made aware of conditions of suspension? (i.e. no contact with staff and pupils or allowed to access THSP premises, email account locked, keys and ID badge returned etc)?	
Is employee aware of who to contact whilst suspended?	

Page 3 of 3 Is employee aware suspension is on full pay whilst full investigation is carried out?	
Employee must remain available at all times during suspension to attend meetings?	
Inform employee will need to be escorted off premises?	
Ensure employee has collected any personal belongings they want prior to leaving?	
Inform relevant personnel (e.g. Line Manager, Safeguarding Lead, Estates) if applicable when employee off site.	
Has employee been informed that this is not an implication of guilt or prejudgement?	
Is there someone you are happy for us to contact on your behalf or be in contact with for your wellbeing?	

APPENDIX 10 POLICY HISTORY

Version		Summary of Change	Review Date	Lead Author
7.10.25		Implementation of new joint Policy to reflect merger of Ventrus and Tarka MATS to become The Harbour Schools Partnership		Sharon Samuel, Senior People Partner