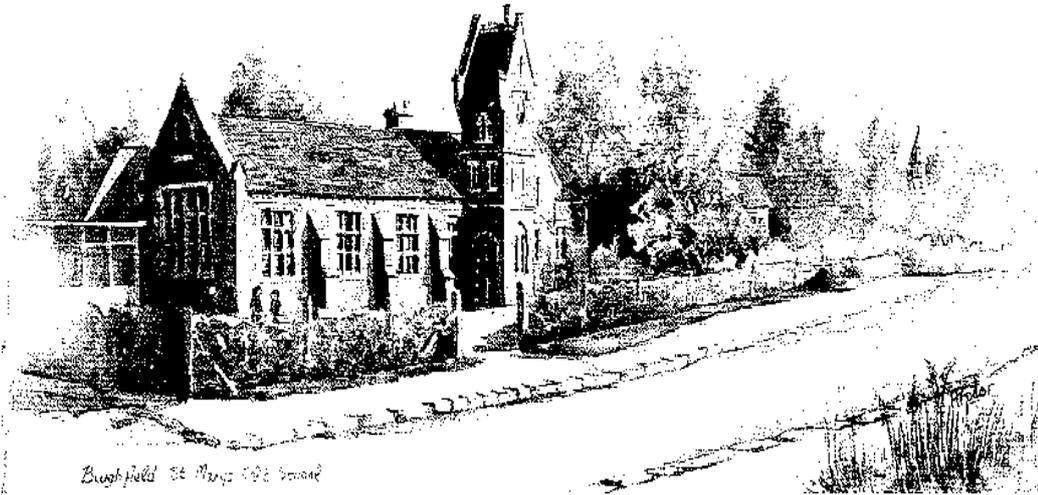


Burghfield St Mary's C of E Primary School



Disciplinary Procedure

'a caring Christian learning environment that inspires'

**Disciplinary Procedure for
Community, Voluntary Controlled, Community Special and Maintained Schools**

<u>Section</u>	<u>Contents</u>	<u>Page</u>
1.0	Policy Statement	2
2.0	Purpose	2
3.0	Scope	2
4.0	Equal Opportunities	2
5.0	What is misconduct?	2-3
6.0	Incapability	3
7.0	Grievance	3
8.0	Principles	4
9.0	Roles and responsibilities	4-5
10.0	Employee Representatives	5
11.0	Dealing with misconduct - Informal Action	5
12.0	Dealing with misconduct – Formal Action	6
12.1	Allegations of Child Abuse	6
12.2	Suspension or transfer	6
12.3	Inform the Employee of the Allegations	7
12.4	Investigation	7
12.5	Arranging the Disciplinary Hearing	7-8
12.6	Postponements	8
12.7	The Procedure at the Disciplinary Hearing	8
12.8	Decision of the Disciplinary Panel	8-9
12.9	Indefinite Warnings	9
13.0	Disciplinary Appeals	9-10
14.0	Written records	10
15.0	Protection of Children Act and Referral to the Children’s Safeguarding Operation Unit (List 99) at the DfES	10

Disciplinary Procedure

1.0 Policy Statement

- 1.1 West Berkshire Council is regarded as the employer for Community, Voluntary Controlled, Community Special and Maintained schools. However, the Governing body has a statutory obligation to establish procedures relating to the conduct and discipline of staff (School Staffing (England) Regulations 2009); including dealing with disciplinary matters, and are responsible for ensuring that all staff are made aware of the procedures. The Headteacher is responsible for the internal organisation, management and control of the school. In disciplinary cases where the outcome is dismissal, the Governing Body or Headteacher (where responsibility has been delegated to the Headteacher) are responsible for making the decision to dismiss and for informing West Berkshire Council of their decision.
- 1.2 West Berkshire Council strongly recommends that Community, Voluntary Controlled, Community Special and Maintained nursery schools adopt this model policy. Foundation and Voluntary Aided schools may also wish to adopt it.

2.0 Purpose

- 2.1 The purpose of this procedure is to tell employees what behaviour or conduct is expected from them, to help and encourage satisfactory standards of behaviour to be achieved and maintained and to ensure fairness and consistency in the management of employees. Its purpose is also to ensure that all relevant evidence can be taken into account before any decision to apply a disciplinary sanction is made and for this reason there is an expectation that all employees will co-operate with the operation of the procedure unless there are exceptional circumstances.
- 2.2 The procedure is based on the ACAS code of practice on Disciplinary Procedures and is in accordance with legal requirements.

3.0 Scope

- 3.1 This procedure applies to all employees at a West Berkshire School with financial delegation **EXCEPT** non teaching staff during their probation period. A separate procedure applies in these cases.

4.0 Equal Opportunities

- 4.1 The Disciplinary Procedure will be applied fairly and consistently to all staff employed at the school regardless of gender, race, colour, marital status, national or ethnic origin, nationality, disability, sexuality, sexual orientation, age, religion, trade union membership/non membership, status or number of hours worked.

5. What is misconduct?

- 5.1 Misconduct involves an employee breaking specific rules about behaviour or conduct. It is conduct that falls below expected standards and is usually wilful. There may be occasions when negligent conduct amounts to misconduct.
- 5.2 Examples of misconduct include the following. This list is not exhaustive:
- misuse of School and/or West Berkshire Council facilities
 - unauthorised, inappropriate or excessive use of school facilities and resources (including the internet, e-mail, IT hardware or software), action contravening the school's acceptable use of ICT policy or action leading to the loss of data or contravention of the Data Protection Act or any damage to the school's IT resources
 - poor time keeping
 - unauthorised absences
 - wilful failure to comply with a reasonable instruction from a member of senior management
 - unauthorised disclosure of examination material or unauthorised assistance to pupils prior to or during examinations

- discrimination, harassment, victimisation or bullying on any grounds which are not sufficiently serious to fall into the category of 'gross misconduct'
- other actions and personal behaviour which are incompatible and/or inconsistent with the expectations of staff working with children and young people, actions inconsistent with the Professional Standards for Teachers
- failure to take prompt and effective action when child protection/safeguarding concerns come to light
- failure to improve faults that build into a pattern of unacceptable behaviour, performance or attitude
- undermining the achievement of team, service or corporate goals
- wilful failure to adapt to changing technologies, methods and patterns of work (as distinct from inability to adapt which is dealt with under the Capability Procedure)
- insubordination
- any act or omission that might otherwise, if the context and impact were judged to be more serious, be dealt with as a matter of gross misconduct

5.3 Gross Misconduct is very serious misconduct and will normally lead to dismissal without notice or pay in lieu of notice. Examples of Gross Misconduct include the following. This list is not exhaustive:

- theft or fraud
- physical violence, bullying or any other unwanted behaviour
- deliberate or serious damage to property
- serious misuse of the School and/or West Berkshire Council's property or name
- serious breach of the school's policies and procedures and/or code of conduct
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- serious insubordination
- serious breach of confidentiality
- sexual misconduct
- unlawful discrimination or harassment
- offences of dishonesty e.g. failure to self-disclose a criminal offence, conviction of caution
- serious incapability at work brought on by alcohol or illegal drugs
- causing loss, damage or injury through serious negligence
- serious breach of health and safety rules
- serious breach of trust and/or confidence
- behaviour that is seriously inappropriate and incompatible with the employee's role and position
- a relevant criminal conviction that undermines the School and/or West Berkshire Council's confidence in the employee and/or undermines the employee's ability to undertake their work
- behaviour that puts other people at risk
- actions that bring the school into disrepute
- deliberately aiding or encouraging another individual to undertake any of the above actions

6.0 Incapability

6.1 Incapability is work behaviour or performance that falls below expected standards because of ability or for health related reasons.

6.2 Incapability has a detrimental effect on service delivery but it is not wilful. Cases involving incapability will be handled under the School's Capability Procedure.

7.0 Grievance

7.1 There is a separate procedure for employees who wish to raise grievances about their employment. If a grievance is raised during the disciplinary process, the disciplinary process may be suspended, where appropriate, for a short period until the grievance can be considered. The grievance procedure cannot be used to circumvent the consideration of legitimate management action on matters of conduct.

- 7.2 In the course of a misconduct case, an employee may raise a grievance connected to the case, in writing, in the following circumstances:
- i) Where s/he is suspended with pay
 - ii) Where a warning has been issued or is being contemplated
 - iii) Where action short of dismissal (see section 12.8.8 'Other formal action') has been taken or is being contemplated and the grievance is that the disciplinary action amounts to unlawful discrimination or that the true reason for the action is not the reason given by the school.
- 7.3 If a grievance outlined in 7.2 is submitted the disciplinary process may be suspended, where appropriate, for a short period until the grievance can be considered. If the grievance is submitted before the disciplinary appeal hearing, it will normally be dealt with at the disciplinary appeal hearing and the rest of the grievance procedure does not have to be followed.

8.0 Principles

8.1 The following principles apply:

- Managers will try to resolve issues of minor misconduct informally. However, where this approach has been tried and has not worked, or where the misconduct is more serious, formal disciplinary action will be considered.
- Except in the most exceptional cases, all allegations of misconduct will be investigated before any disciplinary action is taken.
- The employee will be advised of what it is they are alleged to have done wrong and the reasons why this is not acceptable, given the opportunity to state their case, present relevant evidence at a disciplinary hearing before any decision is made and have the right of appeal against a formal decision taken. Exceptionally, where the allegations include public interest disclosures, Child Protection issues or potential criminal matters, it may not be possible to disclose the full nature of the allegations in the early stages of an investigation.
- At all stages of the formal process the employee will have the right to be accompanied by a representative who may be a relevant trade union official or work colleague.
- Employees will not generally be dismissed for a first incident of misconduct except in the case of gross misconduct. Dismissal for gross misconduct will be without notice or pay in lieu of notice.
- No formal action will be taken against an employee who is a trade union representative until, having consulted the employee concerned; the circumstances of the case have been notified to a regional official of the trade union concerned.
- If there are any disability issues affecting the employee or their companion in relation to the disciplinary procedure these will be reasonably addressed so that any formal proceedings can take place adequately.
- If the employee has difficulty reading or if English is an additional language and they would have difficulty understanding the contents of any letter, this will be explained to them orally. Where appropriate, Braille or audio versions of the letter will be provided on request.
- Information relating to the application of this procedure will be kept confidential.
- An employee has the right to appeal against any disciplinary outcome.

9.0 Roles and Responsibilities

- 9.1 The Governing Body has the statutory authority to decide to dismiss staff. However, it may delegate that authority to:-
- i) the Headteacher (if agreed by the Headteacher);
 - ii) one or more Governors; or
 - iii) one or more Governors and the Head teacher (if agreed by the Headteacher)
- 9.2 If the Governing Body decide to delegate their authority to any of the above then this must be recorded in the minutes of a governor meeting and staff must be advised.

- 9.3 Where the Headteacher has not previously been involved with the case (either as a witness, Investigating Officer or by making a decision to extend a suspension following an investigation) responsibility for dealing with the disciplinary hearing and deciding the outcome of the hearing, including a decision to dismiss, may be delegated to the Headteacher (if agreed by the Headteacher).
- 9.4 Where the Headteacher does not have delegated powers or has previously been involved with the case, West Berkshire Council recommends that three governors with delegated authority not previously involved in the case (either as a witness, Investigating Officer or by making a decision to extend a suspension following an investigation) hear the formal disciplinary hearing and decide the outcome of the hearing, including a decision to dismiss. Where the Headteacher is not presenting the case they may attend such a hearing for the purposes of offering advice, in front of all parties, which the Governors must consider before making a decision.
- 9.5 Where there is alleged misconduct on the part of a Headteacher, the Chair of Governors will inform the Corporate Director for Children & Young People before any action is taken.
- 9.6 Where disciplinary proceedings are taken against a Headteacher, West Berkshire Council recommends that three governors not previously involved in the case hear the formal disciplinary hearing and decide the outcome, including a decision to dismiss.
- 9.7 A panel of governors, normally three, who were not involved in the initial decision, will consider any appeal.
- 9.8 The Corporate Director for Children & Young People and/or an appointed representative has the right to attend a disciplinary hearing where the outcome could result in dismissal, or a disciplinary appeal hearing against dismissal, for the purposes of providing advice. Such advice will be given to the panel privately (in the same way that the employee and the management representative may each receive their own advice) and must be considered by the disciplinary panel before making a decision.
- 9.9 In relation to points 9.4, 9.6 and 9.7, if there are insufficient eligible governors to hear the matter fairly, school governing bodies may choose to collaborate in accordance with the School Staffing (England) Regulations 2009.

10.0 Employee Representatives

- 10.1 The Representative may be a work colleague (i.e. another employee) or a trade union representative. A chosen representative is under no obligation to act on behalf of an employee.
- 10.2 The Representative should be identified to management in advance, and cannot be someone whose presence would prejudice the meeting or who might have a conflict of interest.
- 10.3 If a work colleague, the Representative will be entitled take reasonable paid time off to prepare for and attend the hearing and to confer with the employee before and following hearing.
- 10.4 The Representative may confer with the employee during the meeting; can address the hearing to put the employee's case; ask questions; sum up on the case; and can respond on the employee's behalf to any view expressed at the meeting but cannot answer questions for the employee. The only exception to this is where the Chair considers that the employee is unable to answer questions themselves, for example, because of the employee's ill health. The Representative has no right to address the hearing if the employee does not wish it.
- 10.5 Management does not have the right to prevent the employee from explaining their case. The employee and their representative do not have the right to prevent management from explaining their case.

11.0 Dealing with Misconduct – Informal Action

11.1 In most cases where it is considered that a minor breach of conduct has occurred, the Headteacher or employee's line manager may decide to take an informal approach which may include advice, coaching, training or counselling being given. The employee must be informed of the standards expected and, if necessary, over what period it will be reviewed. This information should be followed up in writing.

11.2 A note of the conversation will be recorded on the employee's file. The employee will be given a copy of the note. The employee must be advised that informal conversations are not part of the formal disciplinary procedure but that further occurrences may result in moving to the formal stage. If the employee fails to improve or maintain an improvement, the conversation can be referred to when taking any formal action under the procedure.

12.0 Dealing with misconduct - Formal Action

Where a matter is more serious or informal action has not brought about an improvement, formal action will be taken. The following describes the procedure to be followed in such cases.

12.1 Allegations of child abuse

Where the allegations are of child abuse and the alleged behaviour might be criminal, involve harm to a child or put a child at risk of harm, the Head of Education Service at the Local Authority must be notified immediately and where appropriate a strategy meeting attended by appropriate Local Authority officers, the Police, Social Care and the Headteacher (or designated governor where the allegation is against the Headteacher) will be convened.

12.2 Suspension or Transfer

- The Headteacher and the Governing Body have the authority to suspend employees on full pay. A decision to suspend is not the imposition of a penalty and does not predetermine the outcome of the investigation.
- When an allegation of gross misconduct has been made suspension **should not** be automatic. In all cases consideration needs to be given to alternatives to suspension, for example, the possibility of temporary redeployment to another area or temporary removal of certain duties. Suspension should only occur when there is a genuine belief that the continuing presence of an individual in the workplace may impede the investigation and that all alternatives to suspension have been explored. Individuals should only be suspended in serious cases where there is:
 - i. No possibility of temporary relocation to an alternative workplace
 - ii. A risk that the presence of the individual may hinder or influence the investigation (for example contact by the individual with other employees may constrain them from cooperating fully with enquiries, evidence may be destroyed or tampered with)
 - iii. A danger that the alleged misconduct may be committed again
 - iv. A risk to pupils and other staff
- If, having considered the above, suspension is considered to be the appropriate course of action, then suspension will occur on full contractual pay. The Governing Body, Headteacher or Local Authority must be informed as the case may be and the employee must be notified in writing of:
 - i. The reasons why they have been suspended
 - ii. Why suspension is considered to be appropriate
 - iii. What options have been explored as alternatives to the suspension
 - iv. Why these alternatives were considered not to be appropriate; and
 - v. That a decision to suspend is not the imposition of a penalty and does not predetermine the outcome of the investigation

- Where appropriate and pertinent to the case, suspended employees may be asked to return property belonging to the school and to refrain from contacting other named employees without first speaking to the Headteacher or their line manager. An employee under suspension must make him or herself available for interviews under the procedure and must not take alternative employment while the contract of employment still applies.
- Suspension should be for the minimum period necessary and must be kept under review. Only the Governing Body is empowered to end a suspension and must inform the employee, Headteacher and Local Authority immediately.
- If on completion of the investigation the Headteacher and/or Governing Body believe it is appropriate, in consultation with the Investigating Officer and having regard to section 12.1.2, the period of suspension on full contractual pay will be extended until a Disciplinary Hearing has been held and a decision communicated to the employee.
- Where it is established after a full investigation that there is no allegation to answer or that suspension is no longer appropriate, the suspension must be lifted by the governing body and the employee must return to work as soon as possible. Where a suspension is lifted, a re-integration plan should be agreed for absences of more than 2 calendar weeks to ensure that the employee could be re-integrated with the minimum of adverse effects.

12.3 Inform the employee of the allegations

12.3.1 In cases of alleged misconduct a meeting will normally be held to inform the employee of the allegations as follows:

- What they are alleged to have done wrong
- That the Disciplinary Procedure has been invoked
- The conduct may result in a disciplinary sanction which may include dismissal (if the employee is found to have committed misconduct while a final written warning is effective for disciplinary purposes and/or gross misconduct)
- That an investigation will be conducted into the allegations
- That the employee has the right to be accompanied at any meeting during the investigation
- Where the employee is to be temporarily transferred or suspended on full pay they will be informed of the reasons for this, and provided with details of the transfer/suspension
-

12.3.2 The above points will be confirmed in writing and the employee will be given a copy of the Disciplinary Procedure.

12.4 Investigation

12.4.1 Except in the most exceptional of cases an Investigating Officer will be appointed to undertake an investigation to establish the facts of the case before any disciplinary action is taken against an employee. The purpose of the investigation is to:

- Establish the facts whilst they are still clear in the minds of those involved
- Decide what further action to take.

12.4.2 The investigation should be conducted with discretion and sensitivity to avoid unjustified damage to reputations. Where an investigatory meeting is held purely to establish the facts it should be made clear to the employee involved that it is not a disciplinary hearing.

12.4.3 The Investigating Officer should review any documentary evidence available in relation to the allegations and should interview any witnesses and take statements from them, or ask them to give their own statements. These statements should be signed and dated by the witnesses. The witnesses should be advised that they may be required to support their statements orally at any subsequent disciplinary hearing.

12.4.4 Where children are to be interviewed as part of the investigation, appropriate arrangements for their support during the process must be made, with parental consent obtained prior to any interview taking place. Particular care must be taken in securing evidence from children. Children will not be called as a witness to a hearing/meeting convened under this procedure.

- 12.4.5 The Investigating Officer will normally be the Headteacher or person nominated by the Headteacher or a governor where the Headteacher is the subject of the investigation.
- 12.4.6 On completion of the investigation, the Investigating Officer must decide what further action to take i.e. whether to drop the matter, deal with it informally, or arrange for it to be handled formally.

12.5 Arranging the Disciplinary Hearing

- 12.5.1 The Disciplinary Hearing will decide what, if any, action should be taken in respect of the alleged misconduct. The employee will normally be given 10 school working days notice in writing of a disciplinary hearing. This notice will include:
- the date, timing and location of the hearing
 - the name of the Chair of the hearing and of members of the disciplinary panel
 - the name of any witnesses (employees of West Berkshire Council, except in exceptional circumstances)
 - details of the allegation(s)
 - where the allegation is one of gross misconduct, that it may lead to summary dismissal or where a final warning is on file and effective for disciplinary purposes that it may lead to dismissal with notice
 - the employee's right to be accompanied at the hearing
 - a copy of the documentation that will be relied upon by management at the hearing
 - a copy of this disciplinary procedure
- 12.5.2 The employee will be expected to provide the Chair of the Disciplinary Hearing with a copy of the documents that they will be relying upon, and the names of any witnesses (employees of West Berkshire Council, except in exceptional circumstances) they will be calling, at least 5 school working days before the Hearing, except in exceptional circumstances.
- 12.5.3 Both the employee and management must take all reasonable steps to attend the Hearing.

12.5.4 Postponements

- 12.6.1 If the employee's representative is unable to attend on the proposed date, the employee can suggest another date so long as it is reasonable and is no more than 5 school working days after the date originally proposed. An extension to this time limit can be made by mutual agreement.
- 12.6.2 If an employee, or their representative, is unable to attend a hearing for reasons that were unforeseeable at the time the hearing was arranged (e.g. illness) then the School will arrange another hearing. If the employee is unable to attend a second time the Hearing will normally convene, as arranged, and a decision taken in the employee's absence.

12.7 The Procedure at the Disciplinary Hearing

- 12.7.1 At the hearing each party will be entitled to present their case, and call witnesses as follows:
- A management representative (normally the Investigating Officer) will confirm the complaint against the employee, present their evidence and call any witnesses
 - Upon completion of the above, the employee and their representative and the Chair/Panel may ask the witnesses relevant questions and ask relevant questions about the management's case
 - The employee or their representative will present the employee's case, their evidence and call any witnesses
 - Upon completion of the above, the management representative and the Chair/Panel may ask the witnesses relevant questions and ask relevant questions about the employee's case
- 12.7.2 If considered necessary by the Panel, the Hearing may be adjourned to consider matters and to seek further evidence.

12.7.3 At the end of the hearing each party will then sum up their case. Both Parties will then leave the hearing and the panel will make a decision.

12.8 Decision of Disciplinary Panel

12.8.1 Following the Hearing a decision will be made on whether disciplinary action is justified or not. Where an employee is found to have committed misconduct the following actions may be taken:

12.8.2 First warning

The employee will be informed in writing of the decision within 5 school working days and the first warning will:

- set out the nature of the misconduct;
- the improvement that is required
- inform the employee that this warning represents the first stage in the formal process and that failure to improve, or any repetition, within the specified timescale could lead to more serious formal action being taken, including dismissal, and
- refer to the right to raise an appeal within 5 working days of being advised of the decision (Section 13.0).

12.8.3 A note of the first warning will be kept on the personal file. This will remain on file but will normally be disregarded for disciplinary purposes after 12 months, subject to the discretion of the Disciplinary Hearing Panel (see section 12.9 'Indefinite Warnings'.)

12.8.4 Final written warning

Where there is a failure to improve or change behaviour in the timescale set at the first formal stage, or where the offence is very serious (but does not warrant dismissal), the employee will be informed in writing of the decision to issue a final written warning. The final written warning will:

- give details of, and grounds for, the complaint
- state that failure to improve or modify behaviour may lead to dismissal or to some other penalty, and
- refer to the right to raise an appeal within 5 working days of being advised of the decision (Section 13.0).

12.8.5 A copy of this final written warning will be kept on the personal file. This will remain on file but normally be disregarded for disciplinary purposes after 2 years except in exceptional circumstances and subject to the discretion of the Disciplinary Hearing Panel (see section 12.9 'Indefinite Warnings'.)

12.8.6 Dismissal

Dismissal will normally result if the misconduct is so serious that it is appropriate to dismiss even though this was a first offence or if conduct remains unsatisfactory despite earlier warning(s). The Chair of the Disciplinary Hearing will write to the employee and the Local Authority within 5 working days of the Hearing stating their decision that the employee is dismissed and the reasons for their decision.

The Local Authority will write to the employee within 5 working days of receiving the written notification from the Chair of the Disciplinary Hearing, terminating the employee's contract, advising them of the date their employment is terminated and of their right to appeal. In cases of gross misconduct the employee will be liable to summary dismissal, without notice or pay in lieu of notice. If the employee has not been dismissed for gross misconduct they will be given the appropriate period of notice.

12.8.7 Other formal action

It might be considered appropriate, or necessary, for other action to result from the formal meeting commensurate with the nature of the offence. With first warnings for misconduct this may include withholding a benefit and/or privilege. With final written warnings this may additionally include a disciplinary transfer, and/or financial recompense where there has been financial loss to the School and/or West Berkshire Council.

12.8.8 As an alternative to dismissal the employee may be asked if they would accept any option considered appropriate above, or disciplinary transfer which may include reduced status, pay and conditions. If not accepted by the employee, dismissal would result.

12.9 Indefinite warnings

12.9.1 There may also be circumstances where, exceptionally, dismissal is not the outcome but where the nature and gravity of the complaint is so serious that it cannot be disregarded in the future, for example, a matter involving assault or abuse. In these cases the warning will remain indefinitely and the employee advised that any recurrence may lead to dismissal.

13.0 Disciplinary Appeals

13.1 An employee is entitled to appeal against a formal decision taken by the Disciplinary Hearing. The appeal must be in writing addressed to the Clerk to the Governors within 5 school working days of being advised of the decision. The written intention to appeal must indicate the grounds for the appeal. An employee may choose to appeal for example because:-

- the finding or penalty was unfair
- new evidence has come to light; or
- The Disciplinary Procedure was not used correctly.

The purpose of an Appeal is to enable an impartial review to be carried out as to the reasonableness of the previous decision. The appeal should not become another disciplinary hearing but should focus on reviewing the process followed and the reasonableness of the decision that was taken.

13.2 The Disciplinary Appeal will be heard as soon as possible and not normally later than four school working weeks after being received. The Appeal Panel should be made up of a minimum of 3 Governors and will be made up of governors who have played no part in the disciplinary hearing itself. The Chair of the Appeal Panel will write to the employee giving them 5 school working days' notice, in writing, of the date of the Disciplinary Appeal Hearing. The employee can be accompanied at the Hearing. The Hearing will review the earlier decision, taking account of the grounds of appeal. The appeal can overturn the earlier decision, confirm it or impose a lesser sanction.

13.3 Both parties must indicate at least 3 school working days in advance of the Disciplinary Appeal Hearing which, if any, witnesses they wish to call.

13.4 The employee will be able to present evidence which is directly relevant to the grounds of appeal and call any witnesses (employees of West Berkshire Council except in exceptional circumstances). The Management representative and the Chair/Panel will be able to ask relevant questions. Management will have the opportunity to respond to the appeal and call witnesses (employees of West Berkshire Council except in exceptional circumstances). The employee and the Chair/Panel will be able to ask relevant questions.

13.5 Facts found at the earlier stage will be accepted as such unless the employee states otherwise and presents evidence which is directly relevant to the grounds of appeal. At the end, both parties will sum up their case and then leave for the Chair/Panel to make a decision.

- 13.6 The employee will be informed of the disciplinary appeal decision in writing within 5 school working days. If the employee is dismissed and reinstated to the same post, pay equivalent to that received when on annual leave will be paid from the date of dismissal to return to work. In cases of reengagement to another post, payment will be made at the rate of pay of the new job from the date of dismissal to return to work.

14 **Written Records**

- 14.1 A record of the documentation relating to the case will be retained and will include:

- The complaint/problem against the employee;
- The employee's views/defence;
- Any grievances raised during the disciplinary process;
- Findings made and actions taken;
- The reason for actions taken;
- Whether an appeal was lodged;
- The outcome of the appeal; and
- Subsequent relevant developments.

- 14.2 Records will be treated as confidential and be kept in accordance with the Data Protection Act 1998 so that an employee has the right to request and have access to relevant information but, in certain circumstances (for example to protect a witness) the School and/or West Berkshire Council may consider it appropriate to withhold some information.

15.0 **Protection of Children Act and Referral to the Children's Safeguarding Unit (List 99) at the DfES**

- 15.1 There is a statutory requirement for the provision of the Protection of Children Act and List 99 scheme to be applied where employees work in the provision of care services to children. Employees at a school who are dismissed, who resign in circumstances which may have led to dismissal or where a disciplinary transfer has occurred on grounds of misconduct which harmed or placed a child at risk of harm will be referred to the Children's Safeguarding Unit (List 99) at the DfES.

Where the dismissal is related to a child protection matter (or resignation in circumstances where a disciplinary process has not concluded and the potential outcome may have resulted in dismissal), the employer is required to make a referral to the Disclosure and Barring Service (DBS). The DBS may take action under their statutory powers or refer the case to the National College for Teaching and Leadership (NCTL) for consideration where the matter concerns a teacher.

Where the dismissal is not related to a child protection matter (or resignation in circumstances where a disciplinary process has not concluded and the potential outcome may have resulted in dismissal), and it concerns a teacher, the employer may make a referral to the National College for Teaching and Leadership (NCTL). The NCTL may take action under their statutory powers.

Where there is a requirement or determination to make a referral to the DBS or NCTL the employee should be notified that such a referral has taken place.

Ratified by FGB 23.5.2022
Next Review Date July 2023