



BEIS YAAKOV JEWISH HIGH SCHOOL ACADEMY

STAFF DISCIPLINARY POLICY

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Signed by Chair of Committee	

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1. INTRODUCTION

- 1.1. This policy has been formulated to provide fair, speedy and effective arrangements for dealing with disciplinary matters. It is intended to cover all cases of misconduct, including minor, serious, cumulative and gross misconduct, and those instances of poor work performance which do not result from genuine lack of capability on the part of the employee to carry out the duties or responsibilities of his/her job.
- 1.2. The policy has been drafted in accordance with the principles contained in the ACAS Code of Practice on Disciplinary and Grievance Procedures and in accordance with various Employment Acts.

2. GENERAL PRINCIPLES

- 2.1. This procedure applies to all employees but does not apply to dismissal for grounds of redundancy, where the individual has not completed the probation period or where dismissal arises from unsuitability for confirmation of employment.
- 2.2. Employees have a responsibility to be aware of BYJHS policies which set out clear standards expected of them, e.g. Staff Equality Policy, Health and Safety Policy, Staff Code of Conduct etc. These policies are available on the School intranet.
- 2.3. The Disciplinary Procedure will be made readily accessible to all employees within the School in electronic form or printed on request.
- 2.4. In instances of poor work performance, formal action under this procedure will only be taken where the poor performance does not result from a lack of capability to carry out work duties. The BYJHS Capability Policy will then apply.
- 2.5. No disciplinary action will be taken until the matter concerned has been investigated. At all stages, employees will be entitled to state their case before decisions are reached.
- 2.6. Before taking any disciplinary action in accordance with this policy and if appropriate, line managers will initially try and resolve the matter informally in order to make the employee aware of the problem and to give them the opportunity to correct it. This will be done through discussions with the employee as part of their day to day management responsibilities.
- 2.7. The disciplinary procedure provides a framework to deal with any employee, whose standard of conduct or work practice continues to fall short of that required. Disciplinary action will be invoked only with the agreement and involvement of a member of the Senior Leadership Team.
- 2.8. The BYJHS Academy has the right to initiate the disciplinary procedure at any level depending on the specific circumstances of the case. The formal procedure is always applicable in cases which may constitute gross misconduct.
- 2.9. An employee will not be summarily dismissed (that is without notice) for a first breach of discipline, except in the event of gross misconduct. If an employee is dismissed for other misconduct, such a dismissal will be with notice or payment in lieu of notice. Employees have the right, however, to appeal against any formal disciplinary sanction.

3. NON-DISCIPLINARY ACTION

- 3.1 A manager will initially try and resolve the matter informally in order to make the employee aware of the problem and to give them the opportunity to correct it before taking any disciplinary action in accordance with this policy. This will be done through discussions with the employee as part of their day to day management responsibilities. Positive action taken may be in the form of counselling, training and setting clear standards for performance and conduct. Notes will be taken at any meetings which will be recorded on personal files and standard-setting letters may be issued. These letters will detail any action/improvement required of the employee with a timescale for review and the possible outcome, should this action/improvement not be achieved.
- 3.2 If the required conduct or performance is not reached, then the manager will refer the matter to a member of the Senior Leadership Team (SLT). The School reserves the right to seek resolution in accordance with this Disciplinary policy.

4. INFORMAL DISCIPLINARY ACTION

- 4.1 This section deals with minor disciplinary issues and will not be used for cases involving serious or gross misconduct where formal action will be instigated immediately.
- 4.2 The employee will be asked to attend an informal meeting with a senior manager or with the line manager supported by the HR Adviser as appropriate and will be given the opportunity to discuss any reasons for concern regarding misconduct or poor performance. This will be confirmed to the employee in writing.
- 4.3 Although this process is intended to be informal, if the employee wishes, he/she may be accompanied by a trade union representative or another employee, who, where appropriate, may speak on the employee's behalf.
- 4.4 If, during an informal meeting it becomes clear that the matter is more serious than first thought, the meeting will be adjourned and a decision made as to whether formal action will be taken immediately. The employee will be kept informed in writing of any decisions and associated timescales.
- 4.5 **Discussion:** Where appropriate, managers may seek assistance from a senior manager or the Academy HR Adviser, who will support them in exploring any underlying reasons with the employee. Support for the employee may be provided in the form of advice for improvement or training. Where improvement is required, the manager will be responsible for ensuring that the employee understands what is expected of them. Employees will also be made aware of what action will be taken if they fail to improve.
- 4.6 **Confirmation:** Notes from this meeting will be given in written form to the employee or, where appropriate, be put into a standard-setting letter. This will include details of the standards expected of the employee, how they will be reviewed and over what time period. Employees will also be made aware of what action will be taken if they fail to improve.
- 4.7 **Outcomes:** If the employee subsequently achieves the required improvements, if appropriate, then this will be sent in writing to the employee and a copy will be placed on their personal file. The employee may comment on the contents of the note if he or she wishes and this will also be placed on their personal file. Where the required improvement is not reached or maintained or a further issue arises, then the manager may decide to meet again and issue a further standard-setting letter. If at any meetings, the manager feels that it is appropriate to issue a verbal warning or proceed to formal disciplinary or capability action, this will need to be approved by a member of the SLT, following external HR advice. A representative of the external HR advisers may also be present at this meeting.

- 4.8 **Verbal Warning.** Depending on the nature of the misconduct or poor performance, in consultation with the HR advisers, the manager may proceed immediately to issue a verbal warning to the employee advising him/her that any further incidents could lead to formal disciplinary action being taken. The verbal warning and any actions recommended will be confirmed to the employee in writing and a copy placed on the employee's personal file. The employee may comment on the content of the note and this will also be placed on file.
- 4.9 If there is any further misconduct of any type within a period of 6 months from the date of the issue of a verbal warning, then the employee will be subject to formal disciplinary action and the verbal warning may be taken into account.
Verbal warnings and standard-setting letters may be used as evidence in formal action taken under either the disciplinary or capability procedures.

5. FORMAL DISCIPLINARY ACTION

- 5.1 Where informal action has not been successful in resolving issues of conduct and poor performance, or where there are cases of serious or gross misconduct, formal action in accordance with this policy may be taken.
- 5.2 If formal action is to be taken, there will be an initial investigation, following which the employee may be asked to attend a formal disciplinary hearing. The employee will be informed in writing of the date, time and place of the hearing including details of the allegation/s against them.
- 5.3 Employees have the right to be represented by a trade union representative or another employee at every stage of the formal disciplinary procedure, including the investigation stages, although the employee must make her/his own arrangements for this. If the employee requests to be accompanied by a colleague then the colleague will be given reasonable time off for this purpose.
- 5.4 No formal disciplinary action will be taken against a trade union official until the circumstances of the case have been raised with a senior representative or full time official of the union concerned.

6. MANAGEMENT INVESTIGATION

- 6.1 For any case being dealt with under this procedure, a fact-finding exercise will be undertaken in order to accumulate sufficient information to determine whether or not the matter needs to be pursued formally. This is normally delegated to an investigating manager or a member of the SLT. The investigation will be concluded as quickly as possible.
- 6.1 The fact-finding exercise may involve interviewing the parties concerned and any other steps which may be appropriate. Statements will be obtained from any witnesses and records kept of what was said. Employees are required to co-operate with any investigation and to attend a fact-finding meeting, at which they may be represented by a trade union representative or another employee.
- 6.2 Where evidence of fraud or corruption is identified, a member of the SLT will immediately report this to the Governing Body.
- 6.3 If, following the fact-finding exercise, the investigating manager considers that the matter should be pursued formally, a member of the SLT will be informed.
- 6.4 If it is found that formal disciplinary action is not appropriate, a member of the SLT will decide whether any other action is necessary in accordance with the Academy's procedures or other guidelines. The employee will be notified of any decision in writing.

- 6.5 If no further action is taken, all records of the investigation will be removed from the employee's file, except in cases that involve children.
- 6.6 If a decision is made to pursue formal disciplinary action, a disciplinary hearing will be convened as soon as possible.
- 6.7 All relevant evidence gathered as part of the management investigation will be disclosed to the employee prior to the hearing.

7. SUSPENSION

- 7.1 An employee may be suspended by a member of the SLT, where the possibility of dismissal for gross misconduct may arise or where there are grounds for doubt as to the suitability to continue at work pending a fact-finding exercise and disciplinary hearing. Suspension will be confirmed in writing within 3 working days with the reasons for the suspension.
- 7.2 All reasonable steps will be taken to notify the employees' trade union representative or employee representative at the time of the suspension. Where possible, the employee may be accompanied to the suspension meeting by a trade union representative or another work colleague.
- 7.3 The suspension will not be used as a punishment and the employee will normally receive full pay for the period of suspension (i.e. what the employee would have received if working normally) for the period of the suspension. However, there may be exceptional circumstances where an employee may be suspended without pay. If this is being considered, the employee's representative will also be consulted.
- 7.4 The suspension will be reviewed after 10 working days and thereafter every 10 working days or sooner if appropriate.
- 7.5 During the period of suspension the employee must not enter the workplace without prior permission from a member of the SLT. A request to meet with the trade union representative, if appropriate, on school premises will not be unreasonably denied.

8. THE DISCIPLINARY HEARING

- 8.1 A disciplinary hearing will be convened within 30 working days of the decision that there is a case to answer, other than in exceptional circumstances warranting a delay. A Hearing Manager appointed by the SLT will inform the employee of the date, time and place of the hearing in writing, with an outline of the allegations.
- 8.2 The employee will be given not less than 5 working days' notice of the hearing. Any management documentary evidence/witness statements must also be produced for all parties no later than 5 working days before the hearing.
- 8.3 The employee may submit written observations on the statement prior to the hearing. These written observations may form the basis of the employee's case at the hearing but are not for the purpose of influencing whether or not the hearing will be held. These, and any other documents the employee may wish to present, must be produced for all parties no later than 2 working days before the hearing.
- 8.4 Where an employee has reasonably requested to be accompanied at a hearing and his/her representative is unable to attend on the notified date, he/she has the right to request a postponement of the hearing for a period of up to 5 working days following the day after the date which had previously been set. In this event a new date will be arranged as quickly as

possible. A request for a postponement will be made as soon as possible after notification of the hearing date.

- 8.5 The Hearing Manager will hold the disciplinary hearing (see appendix 3 for procedure). A note taker may attend on behalf of the Hearing Manager conducting the hearing to provide them with confidential notes along with the Presenting Manager. The employee may also have a note taker in attendance. A member of the Academy HR advisers may also attend the hearing.
- 8.6 Where an employee is unable to attend a hearing s/he is entitled to be represented in their absence. The Hearing Manager will have the discretion to proceed in the employee's absence. When exercising this discretion the Hearing Manager will take into account all relevant circumstances, for example medical evidence, the number of postponements previously made. Letters requesting the employee to attend the hearing will make it clear that the hearing may proceed in their absence.

9. POSSIBLE OUTCOMES OF THE HEARING

- 9.1 The Hearing Manager will deliberate on the verbal and written evidence presented and will make a recommendation to the SLT based on the hearing. The final decision on any outcome will be the SLT's.
- 9.2 **No disciplinary action to be taken.** If it is decided that formal disciplinary action is not appropriate, the employee will be informed in writing. All records of the disciplinary hearing, including the letter to the employee, will be removed from the employee's personal file and destroyed; the only exception being cases involving children, where the papers will be retained. The employee will still receive confirmation of the outcome in writing, but will be advised that no record (other than the above) has been kept on the personal file. In circumstances where it is beyond any doubt that the employee was not guilty of the allegation(s) made, the outcome letter will make this clear.
- 9.3 **Written, final or indefinite written warning:** in these circumstances the employee will be advised that any further disciplinary lapse may result in further disciplinary action including dismissal. All the circumstances of the case will be taken into account in reaching a decision about which sanction to apply. These warnings are considered 'live' for disciplinary purposes as follows:
- Written warning (9 months from date of hearing)
 - Final written warning (15 months from date of hearing)
 - Indefinite written warning

Spent warnings will normally be disregarded only for the purpose of future disciplinary proceedings. For other managerial purposes (e.g. appointments, references), the warning will remain on the record and may be taken into account as appropriate. Managers will not therefore remove the spent warning from the personal file.

- 9.4 **Indefinite warning.** There may be circumstances where the misconduct is so serious - for example either verging on gross misconduct or relating to issues including the care of children that a disciplinary record cannot be disregarded for future disciplinary purposes. In such circumstances the written warning can never be removed and any other misconduct may lead to dismissal.
- 9.5 **Dismissal with notice:** in circumstances other than gross misconduct, this will be after previous written warning(s) or cumulative misconduct and will be dismissal with notice. Except in the event of gross misconduct, an employee may not be summarily dismissed for a first breach of discipline. If an employee is dismissed, any accrued annual leave will not be paid.

9.6 **Summary dismissal without notice** in most cases of gross misconduct. If an employee is dismissed any accrued annual leave will not be paid.

9.7 **Relegation:** Where the employee is considered to be blameworthy of an offence(s) but there are deemed to be mitigating circumstances to justify disciplinary action short of dismissal, in limited circumstances and where appropriate the sanction may be relegation (downgrading). Payment will be commensurate to the grade of the new post. Relegation could also be accompanied by a transfer to a completely new work area, together with a final or indefinite written warning. If the employee does not accept the relegation, then the dismissal will stand.

9.8 **Further misconduct:** If this occurs during the set 'live' time period, then further disciplinary action must be considered. In addition, there may be occasions where an employee's conduct is satisfactory throughout the period the warning is in force, only for it to lapse soon thereafter. Where a pattern emerges and there is evidence of abuse, disciplinary action must be considered and the employee's disciplinary record will be borne in mind in deciding what sanction to apply.

10. NOTIFICATION OF THE OUTCOME

10.1 The Hearing Manager will deliberate on the evidence without the employee in attendance. At the end of the deliberation, the manager will make a recommendation to a member of the SLT. The SLT or the Hearing Manager may inform the employee of the decision verbally but in all cases will confirm the decision in writing within 5 working days. Where it is not possible to meet this timescale then the employee will be informed of the reason for the delay.

10.2 The Hearing Manager or a member of the SLT will state in the letter to the employee the reason or reasons why the decision was taken, including the account taken of any mitigating factors, and will advise the employee regarding his/her appeal rights.

11. APPEALS

11.1 An employee wishing to appeal against formal disciplinary action must do so in writing to the Chair of Governors within 10 working days of receiving written notification of the disciplinary action. An appeal will not normally proceed until sufficient details of the grounds of the appeal are provided. The appeal letter must clearly state the grounds for the appeal which fall into 3 categories:

- *a procedural flaw, stating precisely where the procedure has been breached*
- *the severity of the sanction, stating precisely why it was thought that the sanction was too severe*
- *any other perceived unfairness of the decision, stating precisely what this was.*

11.2 All appeals will be heard by a Disciplinary Appeals Committee and will consist of not less than three governors. A note taker may attend on behalf of the governors to provide them with confidential notes and an HR adviser may be present to provide advice to the Committee.

11.3 Procedures to be followed at an appeal hearing are laid out in Appendix 4.

11.4 The Appeals Committee will hear the appeal as soon as practically possible. Generally this will be within 30 working days of registration of the appeal with the Chair of Governors or as soon as possible thereafter.

11.5 If the employee or their representative has any concerns about the impartiality of the proposed members of the Appeal Committee, this will be referred to the Chair of Governors.

- 11.6 The employee will have the right to representation by a trade union representative or other employee at the Appeal Hearing.
- 11.7 Where an employee has reasonably requested to be accompanied at an appeal hearing and his/her representative is unable to attend on the notified date, he/she has the right to request a postponement of the hearing for a period of up to 5 working days following the day after the date which had previously been set. In this event a new date will be arranged as quickly as possible.
- 11.8 Where an employee is unable to attend the appeal hearing he/she is entitled to be represented in their absence. The Appeal Committee, following consultation with the employee's representative, will have the discretion to proceed in the employee's absence.
- 11.9 The employee will be given not less than 5 working days' notice of the hearing and will be provided with a copy of all the documentary evidence. New evidence or additional witnesses will not be allowed, save in exceptional circumstances, at the discretion of the Appeal Committee.
- 11.10 The Hearing Manager at the original Disciplinary Hearing or a member of the SLT will normally present the management's case to the Appeal Committee. The member of the SLT must ensure that the Appeal Committee is presented with sufficient evidence as to the basis of his/her decision on the points which are the subject of the appeal. This may include, for example, providing management notes of the original hearing or calling appropriate witnesses.
- 11.11 The Appeal Committee will not normally rehear the case but only consider the grounds of appeal and whether the decision taken and the sanction given by the original Hearing Manager was reasonable in all the circumstances of the case based on the evidence put before him/her at the time. Specifically the Appeal Committee will consider whether the original Hearing Manager had sufficient evidence available in order to come to a reasoned judgement and can demonstrate that the arguments and reasoning of both sides were fully considered when reaching a decision on his/her recommendation.
- 11.12 In exceptional circumstances the Appeal Committee may request to hear from a particular witness or re-consider a piece of evidence. For example, it may be necessary to hear evidence about whether there was an adequate or appropriate investigation or whether there was a procedural flaw, which could be rectified by the appeal.
- 11.13 The final decision on any matter will rest with the Appeal Committee following consultation with both parties.

12. OUTCOME OF THE APPEAL HEARING

- 12.1 Where the Disciplinary Appeal Committee confirms the original decision, then the employee will be advised of that decision in writing within 5 working days.
- 12.2 Where the Appeal Committee decides to amend the decision of the Hearing Manager, then they may do so by substituting the sanction applied by the original Hearing Manager for one or more of the outcomes set out above.
- 12.3 Where the Appeal Committee decide that the employee will be relegated then the employee will be re-instated to their original post with effect from the date of dismissal until the date of the decision of the Appeal Committee. The terms and conditions applied to the post arising from the relegation will apply from the date of the decision of the Appeal Committee.

- 12.4 If the Appeal Committee decides that no sanction is applicable or that the employee will be issued with a written, final or indefinite written warning only, then the employee will be re-instated with effect from the date of dismissal. Where an employee is re-instated it means that they were never in fact dismissed and their contract of employment continued to exist from the date of the first decision to dismiss and the decision of the Disciplinary Appeal Committee which resulted in re-instatement. This means that continuity of service will be preserved, the employee will be entitled to full back pay including pension and will be entitled to accrue annual leave entitlement (where appropriate) for the period for which they were 'dismissed'. If the employee was in receipt of state benefits then he/she will be expected to notify the appropriate Agency of their reinstatement and to repay any benefits received.
- 12.5 The decision of the Disciplinary Appeal Committee is final.

13 COMPLAINT AGAINST A MEMBER OF THE SLT

- 13.1 Complaints made against a member of the SLT will be referred to the Chair of Governors..
- 13.2 The Chair of Governors will initiate an investigation into the complaint with the advice and support of the external HR advisers. If, as a result of the investigation, the Chair of Governors is of the view that the member of the SLT has a case to answer, he/she will arrange for a Disciplinary Panel of 3 governors to hear the case.
- 13.3 The case will normally be presented by the Chair of Governors. Alternatively the Chair of Governors may request or recommend an appropriately qualified external person, to undertake the investigation and present the case at any subsequent disciplinary hearing.
- 13.4 Where there is a possibility of disciplinary action, the Chair of Governors must ensure that there are sufficient governors available to carry out impartially the functions of any disciplinary and appeals hearings. Members of the disciplinary and appeals hearings need not be left in complete ignorance as knowing about a situation does not constitute prejudice. However, members of hearings will be careful not to become directly involved, either through expressing opinions or taking action which might be seen to have prejudiced their ability to hear a case fairly.

Appendix 1. GROSS MISCONDUCT

“Gross Misconduct” is misconduct of such a serious nature that the BYJHS Academy is justified in no longer tolerating the employee’s continued presence at the place of work. If, after investigation, it is deemed that an employee has committed an offence of the following nature (the list is not exhaustive), the normal consequence will be dismissal without notice:

- Serious failure to comply with or operate the Academy's Equality Policy. Examples include serious acts of discrimination, harassment, or verbal abuse against employees, students or members of the public on grounds of race, sex, disability, age, sexual orientation or religious beliefs; the display or circulation within the workplace of any literature or material via any medium that could reasonably be expected to offend other persons
- Serious bullying or harassment
- Serious infringement of health and safety policy, procedures or guidance
- Serious failure to comply with or operate the school's normal code of conduct. Examples include holding unauthorised paid employment during paid Academy time; conducting inappropriate relationships with pupils; not declaring a personal interest which may infringe the employee’s impartiality
- Serious negligence that causes or might cause unacceptable loss, damage or injury
- Bringing the school into serious disrepute
- Serious incapability whilst on duty brought on by alcohol or illegal drugs
- Serious failure to comply with or operate the school's Information Systems and Security Standards. Examples include gaining unauthorised access to passwords and breaches of the IT users’ policy
- Serious breach of financial regulations or procedures
- Unauthorised removal, possession, use or theft of property belonging to the school, an employee, student or member of the public
- Acts of violence including the assault of an employee, pupil, or member of the public during working hours or in connection with their employment or work
- Falsification of qualifications or information to obtain employment with the Academy or which are a statutory or essential requirement of employment or which result in additional remuneration
- Deliberate falsification of records such as attendance sheets, expense claims
- Acceptance of bribes or other corrupt or fraudulent practices
- Defrauding the School of monies
- Disclosure of highly confidential matters to public sources or the deliberate unauthorised use or disclosure of any information or computer generated information from which a living individual can be identified (Subject to the Public Interest Disclosure Act 1998)
- Committing a criminal offence at or away from work that renders the employee unsuitable to remain in the school’s employment or which may damage the school's reputation; or where there are reasonable grounds to believe that a serious criminal offence has been committed which may be connected or unconnected with their employment.

Appendix 2. OTHER TYPES OF MISCONDUCT:

Misconduct may be deemed to be minor, serious or gross.

Examples of misconduct where a form of warning may be issued, or where cumulative or repeated acts could lead to dismissal, are as follows:-

- Attendance and Time-keeping
- Failure to comply with attendance and time-keeping requirements
- Failure to follow procedures for booking and returning from leave
- Persistent absence and/or excessive absence without medical reason
- Telecommunications related issues
- Overuse of telephone, fax, e-mail or Internet for personal reasons
- Inappropriate use of e-mail or Internet (gross misconduct in serious cases)
- Recording conversations or meetings without having been given permission by the employee/manager concerned.
- Poor performance
- Poor working practices
- Error resulting from poor working practices
- Negligent performance (gross misconduct in serious cases)
- Failure to meet targets, deadlines and/or objectives
- Poor customer service behaviour
- Failure to follow a legitimate management instruction
- Prolonged time-wasting
- Inappropriate behaviour towards a colleague or pupil or member of the public (gross misconduct in serious cases).
- Failure to maintain proper records
- Failure to follow school procedures e.g. financial regulations, safety standards
- False or vexatious complaints/grievances made against another employee or manager
- Serious cases of the above examples are potentially 'gross misconduct'.

Appendix 3. THE PROCEDURE TO BE FOLLOWED AT DISCIPLINARY HEARINGS

The Hearing Manager will ensure that there is a management note taker.

The Hearing Manager:

- Introduces all parties and explains the purpose of the hearing
- Explains the procedure to be followed
- Clarifies position with regard to witnesses on both sides
- Reads out the allegations and asks the employee whether he/she admits or denies the allegations

1. Where employee admits the allegations

- The employee will be invited to present any mitigating circumstances to the Hearing Manager.
- The Presenting Manager may ask questions of the employee. The questions may relate to the mitigation or, if appropriate, the circumstances which led to the allegations. The Presenting Manager may present evidence to support any argument against the mitigation
- The Hearing Manager may ask questions of the employee and presenting manager as appropriate, to ensure that he/she has a full understanding of all the facts of the case including the mitigation.
- The HR adviser may ask questions of the employee and presenting manager as appropriate.
- In addition, the Hearing Manager may require that witnesses/evidence will be called/produced in order to ensure that all the necessary facts can be considered before making a decision on the case. The Hearing Manager may decide to adjourn the hearing to allow for this if necessary.

Summing up stage

- Presenting Manager sums up first
- Employee or representative sums up next
- No new evidence can be presented at this stage

Deliberation

- The Hearing Manager will then ask both parties to withdraw apart from the HR Adviser and note taker. The Hearing Manager will indicate to the parties whether they should wait to be recalled for the decision.
- The Hearing Manager will then deliberate and reach a decision on the basis of the evidence presented in the course of the hearing, with advice from the HR Adviser as necessary.

The Decision

- The Hearing Manager may give the decision verbally at the end of the hearing or in writing later.
- The decision must be confirmed in writing, within 5 working days of the hearing to the employee and copied to their representative and to the Presenting Manager.

2. Where employee denies allegations

- The management representative will present the case.
- Employee and/or trade union representative may ask questions on the presentation
- Hearing Manager may ask questions
- HR adviser may ask questions

The manager presenting the case will then call witnesses one at a time.

- Hearing Manager introduces all parties to each witness and explains procedure.
- The Presenting Manager questions the witness
- Employee and/or trade union representative questions the witness
- Hearing Manager questions the witness
- HR adviser may question the witness

The employee and/or employee representative then present their case.

- Presenting Manager may ask questions on the presentation
- Hearing Manager may ask questions
- HR adviser may ask questions

The employee/employee representative will then call witnesses one at a time.

- The Hearing Manager will introduce all parties to each witness and will explain the procedure to be followed.
- The employee/employee representative will ask questions of the witness.
- Manager presenting the case will ask questions of the witness
- Hearing Manager will ask questions of the witness
- HR adviser may ask questions of the witness.

Following questioning by the other party, witnesses may be re-examined once more by the Presenting Manager, employee or trade union representative, Hearing Manager or HR adviser, if necessary, to clarify any points raised during the cross-examination.

Once each party has completed their questioning, witnesses will not normally be recalled. However, the Hearing Manager/panel has the right to recall witnesses or seek further information if this is required. If this does happen, both sides will be recalled into the hearing. In addition, the Hearing Manager may require that other witnesses or evidence will be called or produced in order to ensure that all the necessary facts can be considered before making a decision on the case. The Hearing Manager may decide to adjourn the hearing to allow for this if necessary.

Summing up stage

- Presenting Manager sums up first
- Employee or representative sums up next
- No new evidence can be presented at this stage

Deliberation

- The Hearing Manager will then ask both parties to withdraw apart from the HR adviser and note taker.
- The Hearing Manager will then reach a decision on the basis of the evidence presented in the course of the hearing with advice from the HR Adviser as necessary.
- The Hearing Manager will make a note of the reasoning behind his/her decision and keep this carefully filed for future reference if need be.

The Decision

- After deliberation the Hearing Manager will reach a decision regarding the recommendation to be made to the Head Teacher
- The member of the SLT's final decision must be confirmed in writing within 5 working days of the hearing to the employee and copied to their representative and to the Presenting Manager.

Appendix 4 - THE DISCIPLINARY APPEAL PROCESS

The Chair of the Appeal Committee will ensure that there is a note taker. The Chair of the Appeal Committee will introduce all parties present and explain the purpose of the hearing. Both parties will be asked if they intend to bring witnesses, although failure to name witnesses at this stage does not mean that they cannot be called later within the hearing.

Presentation by the appellant

1. The appellant or representative presents the grounds for the appeal.
2. Management, Appeal Committee members and HR adviser may ask questions of the appellant/representative on the grounds for appeal in the order given.
3. The appellant/representative calls any witnesses and questions them
4. Management/Appeal Committee/HR Adviser may ask questions of witnesses in that order.

Response to the appeal by management

1. The manager will respond to the appeal in the presence of the appellant.
2. The appellant (or representative), members of the Appeal Committee and the HR adviser may ask questions of the presenting manager in the order given
3. The Presenting Manager calls any witnesses and questions them
4. The appellant (or representative), members of the Appeal Committee and the HR Adviser may ask questions of any witnesses

If required, the Appeal Committee may recall witnesses or seek further evidence to ensure that they are aware of all the facts of the case. The Appeal Hearing may be adjourned to allow for this to happen. If recall is necessary to clear points of uncertainty, both parties will return, notwithstanding the fact that only one may be concerned with the point giving rise to doubt.

Summing Up Stage

The manager, followed by the appellant (or representative) will have the opportunity to sum up their case. This summing up may take into account statements made during the proceedings, but may not introduce new evidence.

Deliberation by the Appeal Committee

Both parties will withdraw, leaving the Appeal Committee to deliberate, accompanied by the HR Adviser and note taker. The Chair of the Appeal Committee will indicate to the parties whether they will wait to be recalled for the decision. The Appeal Committee will make a note of the reasoning behind their decision and keep this carefully filed for future reference if need be.

The Decision

The decision is made by the Appeal Committee and may be given to the parties verbally at the end of the meeting following deliberation or later in writing. In any event the decision must be confirmed in writing by the Chair of the Appeal Committee within 5 working days.