



Disciplinary Procedure

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VERSION CONTROL

Version	Date	Author/Reviewer	Substantive changes since the previous version
DRAFT V0.1	June 23	DD/JC	Updated policy for ONE Academy Trust. Merges the previous WAT & Believe policies.
DRAFT v0.2	July 23	Checked by DD/JC/GB	JC input & revisions included
V1	Sept 23	Checked by DD/JC/GB	Trustees' comments incorporated. No feedback received from staff consultation.
V1.1	July 24	Checked by DD/JC/GB	Minor amendment to clarify appeals procedure.

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1. Introduction

- 1.1 This Disciplinary Procedure is designed to help and encourage all employees employed by ONE Academy Trust to achieve and maintain standards of conduct. The aim is to ensure consistent and fair treatment for all in the organisation.
- 1.2 Advice and support for managers on the application of this policy is available from the trust's Human Resources (HR) manager.
- 1.3 Examples of the type of conduct that is considered to be misconduct or gross misconduct, which could lead to action under this Disciplinary Procedure, are set out in the Disciplinary Rules (Appendix 1) which apply to all employees and should be read in conjunction with this procedure.
- 1.4 This procedure applies to all employees. It does not apply to agency workers or contractors. This procedure is non-contractual.
- 1.5 This procedure may be implemented at any stage, as set out below, taking into account the alleged misconduct of an employee. Employees will not normally be dismissed for a first act of misconduct unless it is decided that it amounts to gross misconduct. Leaders will also consider whether an employee's probationary period is complete or not as part of any decision-making processes.
- 1.6 The headteacher or an appropriate trust-wide leader (hereafter referred to as the disciplinary officer), will carry out the disciplinary process without unreasonable delay. All parties are responsible for observing and cooperating fully with any specified timeframes.
- 1.7 Where an issue has been raised informally with an employee about their conduct or behaviour, it should be made clear at that time that formal disciplinary action could be taken if there is a further instance of misconduct.
- 1.8 All parties are expected to attend investigation meetings or disciplinary hearings as arranged. Where an employee is repeatedly unable or unwilling to attend these, the disciplinary officer will come to a reasonable decision on how to proceed and may conclude that a decision will be made on the evidence available. This may be in the employee's absence.
- 1.9 Disciplinary action will not be taken until a reasonable¹ amount of information and facts relating to the case have been gathered and considered. This should be sufficient to make a reasonable and informed judgement. Any action must be reasonable in all circumstances.
- 1.10 When an employee raises a grievance during any stage of the disciplinary process the grievance will be heard as promptly as possible and in some cases concurrently to the disciplinary process. Any grievance received should be acknowledged and the employee notified whether it will be dealt with once the disciplinary procedure has been completed or concurrently. Raising a grievance in this way should not delay applying the disciplinary process in any way.
- 1.11 It is a fundamental principle that disciplinary matters are dealt with at the lowest formal level possible, appropriate to the disciplinary matter under investigation
 - The headteacher, in consultation with the CEO and the trust's Human Resources (HR) manager is responsible for matters concerning school employees and can delegate authority to members of the school's senior leadership team to issue warnings and deal with other associated actions in line with the provisions of this policy.

¹ As much as is appropriate or fair; moderate

- The CEO, in consultation with a designated committee of the board and the trust's Human Resources (HR) manager, is responsible for matters concerning the headteacher and the trust's central team staff.
- The chair of the board of trustees in consultation with the HR manager is responsible for matters concerning the CEO.

Note: The final authority to dismiss a member of staff rests with those at the trustee level or a designated committee of the board of trustees. The appointed disciplinary officer (headteacher, CEO or chair of the board of trustees) will report to the ONE Academy Trust Board of Trustees any dismissal.

1.12 Disciplinary meetings should take place, where possible face to face. However, it is recognised that technologies may mean that meetings can take place fully via online platforms, or participants can join using these provisions. Where the use of technologies is considered as the most appropriate means to hold the meeting (fully, i.e. all online or partially, i.e. some participants online) all parties must agree. The senior leader should consider if this can be done fairly, including if:

- everyone involved has access to the technology needed for video meetings, for example, the necessary equipment and internet connection
- anyone involved has any disability or other accessibility issues that might affect their ability to use video technology, and whether any reasonable adjustments might be needed
- any witness statements or other evidence can be seen clearly by everyone involved during the hearing
- it will be possible to fairly assess and question evidence given by people interviewed in a video meeting
- it is possible to get hold of all the evidence needed for the investigation or hearing, for example, records or files that are kept in the office
- it's possible for the person under a disciplinary investigation or who raised a grievance to be accompanied during the hearing

1.13 The disciplinary process must be confidential to all parties and online meetings should not be recorded.

1.14 These disciplinary procedures are based on the statutory [Disciplinary and grievance code of practice from Acas](#) the non-statutory Acas guidance, equalities legislation and statutory equality duty. These procedures also take account of the DfE [Staff Advice Handbook](#) which sets out the latest guidance from the DfE on staffing matters.

1.15 This policy reflects legislation at the time when it was last reviewed. Any changes in legislation will take precedence over anything printed in the policy.

1.16 These procedures comply with our funding agreement and articles of association.

1.17 This policy links with other ONE Academy Trust policies and procedures, including:

- Whistleblowing
- Allegations of Abuse
- Staff Grievance Procedure
- Acceptable Use of IT (including social media)
- E-Safety
- Staff Code of Conduct
- Drugs and Alcohol Policy
- Absence Management

- Staff Appraisal and Capability Policy
- Equality & Diversity
- Safeguarding
- Data Protection
- Bullying and Harassment

Equality and Diversity

- 1.18 The procedure will be operated in accordance with the trust's Equality and Diversity Policy. The trust is committed to developing, maintaining and supporting a culture of equality and diversity in employment. The impact of the procedure will be monitored in accordance with the Equality Act 2010
- 1.19 The board of trustees is aware of the guidance and provisions of the Equality Act 2010 and is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments where these are deemed either necessary or appropriate. If employees need assistance or adjustments to understand and comply with this procedure and/or attend meetings, they should contact their line manager at the earliest opportunity.

Definitions

- 1.20 Unless indicated otherwise, in this policy the term 'teacher' refers to classroom teachers, middle and senior leaders, and the headteacher.
- 1.21 Throughout this policy, reference to working days refers to school days (Monday to Friday during school term time and excluding bank holidays and inset days).

2. The Disciplinary Rules for all employees

- 2.1 The Disciplinary Rules are set out at Appendix 1. They should be read in conjunction with our Disciplinary Procedure. The Disciplinary Rules are intended to give examples of the type of conduct that is considered **misconduct** or **gross misconduct**, and which could lead to action under our Disciplinary Procedure.
- 2.2 Job Descriptions constitute rules that set a framework of tasks and duties against which standards of every work performance can be assessed. Therefore, job descriptions must be well-defined, structured, and drawn up for posts within ONE Academy Trust. Job descriptions should, therefore, be signed by the postholder, indicating acceptance of the requirements of the job.
- 2.3 For the purpose of this policy, misconduct does not cover staff capability or poor performance issues. These are addressed in our Staff Appraisal and Capability policy.

Gross Misconduct

- 2.4 Appendix 1 sets out **examples** of matters that are normally regarded as **gross misconduct**. This list is intended as a guide and is not exhaustive.
- 2.5 Gross misconduct is a serious breach of contract and includes misconduct which, in our opinion, is likely to prejudice our organisation or reputation or irreparably damage the working relationship and trust between us. If you are suspected of committing an act of gross misconduct, you may be suspended with full pay pending investigation. Gross misconduct will be dealt with under our Disciplinary Procedure and will normally lead to dismissal without notice or pay in lieu of notice (summary dismissal).

- 2.6 We will refer a case of teacher gross misconduct to the Teaching Regulation Agency (TRA) if we believe the case is so severe that the TRA should consider whether the teacher should be prevented from teaching. We will also refer cases to other relevant authorities where appropriate.

Misconduct

- 2.7 Appendix 1 sets out **examples** of matters that are normally regarded as **misconduct**. This list is intended as a guide and is not exhaustive.

3. Suspension of an employee

- 3.1 At any stage prior to, during or following the investigation, the employee may be suspended. The suspension should only occur if one or more of the following applies:
- it is necessary to allow a proper investigation to take place;
 - the continued presence of the employee at work may be prejudicial to a fair disciplinary hearing;
 - the allegations are serious enough to warrant consideration of dismissal.
 - where an allegation of misconduct has been made against a member of staff the nature of which could involve potential risks to pupils or other employees
- 3.2 Any decision to suspend a member of staff can only be made by the headteacher, CEO or those at the level of trustees or a designated committee of the board (dependent on the role of the employee who is being investigated) after seeking advice from the trust's HR manager.
- 3.3 Prior to any suspension taking place, a risk assessment should be completed to determine whether a suspension is required. Other alternatives to suspension may include, but are not limited to:
- Suitable redeployment within the school or trust, alternative work within the school or trust or temporary redeployment to another role in a different location
 - Provision of adequate supervision levels or the presence of an appropriate colleague
- 3.4 It must be explained to the employee that suspension, in itself, is not a disciplinary sanction and does not indicate or presume the outcome of any disciplinary hearing.
- 3.5 Where suspension is deemed necessary the following procedure must be followed:
- The line manager (i.e. the headteacher (for school staff), CEO (for headteachers and central trust staff) or the chair of the board of trustees (for the CEO) must authorise the suspension as appropriate.
 - The employee will be informed of the suspension in a face-to-face meeting (held in person or over video conferencing if necessary), followed by a notification in writing, within 5 working days. In rare circumstances, for instance, where an employee is absent, it may be necessary to write to the employee to notify them of a suspension if a face-to-face meeting cannot be arranged.
 - The employee should be given as much information, including reasons for their suspension, as is consistent with not interfering with or prejudicing the investigation of the allegation.
 - The employee should also be informed that they will be required to attend an investigation interview and will be given the opportunity to state their version of events and any other information they think relevant. In cases of allegations that relate to child protection, this interview will normally be conducted by the police.

- The employee should be advised to seek advice and assistance from their professional association or trade union. A member of staff who is not a member of a professional association or trade union may seek advice from and be assisted by a colleague.
 - It should be explained to the employee that their suspension will be on normal pay and that they will be required to be contactable during their suspension. Also, in order not to prejudice the objectivity of the investigation, they will not be permitted to attend the workplace or contact any colleagues or other staff without the prior permission of, and agreement of arrangements with their line manager. It is recognised that there may be particular reasons why the employee needs to contact certain other staff but it is important that this is cleared with the line manager as once contact is made, it is very difficult to ensure and verify that no discussion in relation to the reason for the suspension has taken place.
 - The employee should be informed that their suspension will be confirmed in writing, that the period of suspension will be kept under review, with a formal review after one month, and that they will be kept informed of the progress of the investigation. Written confirmation should be prepared and handed to the individual at, or as soon as possible after, the meeting.
 - The line manager should agree with the employee what their colleagues and the wider school community will be told about and the reason for their absence. This is particularly important in sensitive situations and will allay continued suspicions or doubts about the absence if the employee returns to work when the investigation or associated action has been concluded.
 - Arrangements should be made for the employee to return any school or pupils' books, property, or keys, and by agreed arrangement and supervision, collect any personal belongings which they might need during their suspension.
- 3.6 Where an employee is suspended during the investigation of a complaint or allegation and throughout the period of suspension the employee shall receive normal pay. If an employee is subsequently dismissed they shall not be entitled to wages (or salary) other than the sum (if any) due up to the date of dismissal, but they shall be allowed to retain any sum already paid to them during the period of their suspension. If they are reinstated there shall be full restitution of earnings.
- 3.7 The CEO, the chair of the board of trustees and the chair of governors (where a local governing body is established) should be advised if a decision is made to suspend an employee and this should be documented with reasons.
- 3.8 In cases of allegations of potential child abuse, if a decision is taken **not** to suspend, this should be documented with reasons and the CEO, the chair of the trustees and the chair of governors (as applicable) informed.
- 3.9 Headteachers, governors and trustees should be aware of the relevant Local Authority's child protection and other safeguarding procedures when dealing with allegations against members of staff.
- 3.10 Since suspension is not a disciplinary sanction, an employee has no right of appeal against the decision.
- 3.11 The employee(s) are involved in a potentially stressful experience. To support those involved ONE Academy Trust will offer appropriate welfare support (see below).

Reviews of suspension

- 3.12 Suspension should be regularly reviewed and kept to as short a period as possible. The employee should be kept informed of progress. The suspended individual will be provided with a named contact and subsequent contact details for support reasons.

- 3.13 An initial review of the case should take place as soon as possible and ideally within 5 - 10 working days, to enable the employee to continue working and minimise the length of the suspension. Thereafter, a review will take place every four weeks.
- 3.14 The purpose of a review is to ensure that the suspension is as short as possible. It is unfair to a member of staff to delay the investigation and resolution of any issues, particularly disciplinary, arising from it.
- 3.15 Except in very complex circumstances where it is, or may, be unavoidable, a protracted suspension may be open to subsequent challenge.

Lifting suspensions

- 3.16 Only the headteacher, the CEO, those at a level of the trustees or a designated committee of the board, in consultation with the HR manager and in accordance with the procedures set out below, may end a suspension. Sometimes there may be a recommendation that a suspension is lifted without the matter having been referred for a hearing.
- 3.17 Trustees will be given only sufficient information for them to make a reasonable and appropriate decision, on an informed basis. Trustees will also need to be reassured that the health, safety and welfare of pupils can be maintained and that appropriate support is available for all concerned.

4. Informal action

- 4.1 Managers should seek to resolve minor misconduct informally and as soon as it occurs. Where Managers do not feel the conduct of the employee is sufficient to commence the formal disciplinary procedure, a meeting will be held with the employee to discuss their conduct, identify the circumstances of the conduct, including any mitigation and discuss the level of support required to prevent further occurrences or improve conduct. Management advice may be given to the employee by a senior manager or a line manager. Action will be taken under the formal procedure if the matter is not resolved (e.g. if the advice given or recommendations made are not taken), there is repeated minor misconduct or where informal action is not appropriate (for example, because of the seriousness of the allegation).
- 4.2 The written management advice memorandum will set out the conduct issue, the improvement that is required, the support measures that are to be provided and, if appropriate, how this will be reviewed and during what timeframe. The employee may make written comment on the memorandum if they have any objection to the informal action taken.
- 4.3 There is no appeal against management advice given, which will not be placed on the employee's disciplinary record.
- 4.4 A copy of the memorandum or a note of any informal discussions will be placed on the employee's personnel file for up to 6 months. This information remains within the school/trust and would not be declared in the event of the employee applying for a position elsewhere.
- 4.5 The line manager may seek advice from the trust's HR manager as necessary at the informal stages of the procedure.
- 4.6 If the issue cannot be dealt with informally, formal procedures will begin. The employee will be notified of this in a face-to-face meeting (where possible) with their line manager or over video conferencing or telephone if necessary. This will be followed up in writing.

5. Investigation

- 5.1 When allegations of misconduct are made, a senior manager (with no line management

responsibility for the individual being investigated) should be appointed to investigate the allegations (the Investigating Officer). The Investigating Officer should be a person with no prior involvement in the matter under investigation, independent of the situation, and should carry a position at least one level above the employee concerned. In the event of an Investigating Officer being deployed in an occurrence involving the CEO, the Investigating Officer will be a representative from the board of Trustees. In certain circumstances, it may be more appropriate for the investigation to be carried out by an external independent investigator.

- 5.2 Any allegation of misconduct should be dealt with as a matter of urgency and no formal disciplinary action that could lead to dismissal taken until the case has been properly investigated. Suspension may be appropriate. The employee who has allegations made against them should be interviewed as soon as possible, once the allegations are clear. The employee will be entitled to support from a union representative or colleague during an investigation meeting.
- 5.3 Where, after full investigation and consideration, it is decided that no formal action is necessary, further support and development may still be necessary to address issues identified during the investigation process. The employee should be informed in writing that no further action is to be taken against them. If, following the investigation, it is decided management advice is required, this should be issued and recorded in accordance with section 4 above.
- 5.4 Following the investigation, the investigating officer will compile a report outlining the details of the investigation to the disciplinary officer. The report will provide a recommendation on whether or not the investigating officer feels formal disciplinary action is required based on the facts identified during the investigation process.
- 5.5 The disciplinary officer (a senior manager - usually the headteacher for school staff, CEO for central trust staff and a member of the board of trustees for the CEO) will review the facts from the investigation report. If there are sufficient grounds to commence formal disciplinary action, the disciplinary officer will commence the arrangements for a disciplinary hearing.

6. Disciplinary hearing

- 6.1 If, following an appropriate investigation by the investigating officer, the disciplinary officer (senior line manager) initiating the process considers that formal disciplinary action for misconduct is necessary, they will:
 - Arrange for a disciplinary panel to be appointed. ***The members of the panel must be independent of the investigating officer.*** The disciplinary panel will comprise of the disciplinary officer and either one representative from a local governing body and one representative from the board of trustees or for schools who do not have a local governing body, a local governor from another school or two representatives from the board of trustees will sit on the disciplinary panel. In the case of a headteacher, CEO or a member of the trust's executive team being the subject of the disciplinary procedure, two representatives of the board of trustees will normally sit on the panel. The panel may also have an HR adviser present.
 - Arrange a disciplinary hearing
 - Write to the employee to inform them of the disciplinary hearing as soon as practicably possible, at least 10 working days in advance of the hearing. The notification should include:
 - The date, time and place of the disciplinary hearing (including the details if the meeting is to be held over video conferencing, if relevant)
 - Details of the alleged misconduct and its possible consequences.

- A statement that the employee has the right to be accompanied by a colleague or a trade union representative.
- An explanation that if an employee's chosen companion will not be available to meet at the proposed time, the hearing can be postponed to a time proposed by the employee, as long as the alternative time is reasonable and not more than 5 working days after the original date.
- Copies of any written evidence, including witness statements (these should be listed on the notification)
- Notification that the employer intends to call witnesses (if relevant) and their names.
- The employee's right to call witnesses. If the employee intends to call witnesses they should notify the employer.
- Notice that the employee must advise the disciplinary officer of the following at least 5 working days in advance of the hearing:
 - The name and designation of their companion.
 - Provide any written documentation/evidence they wish to be considered.
 - The names of any witnesses that they wish to call.
 - Any special requirements (e.g. disability, language requirements).
- The names of the panel members
- The name and position of any HR adviser who will advise the disciplinary panel at the hearing.
- The name and position of any note taker.

- 6.2 Employees have a statutory right to be accompanied at a meeting that may result in a formal warning being issued, disciplinary action being taken, or the confirmation of either of these.
- 6.3 The employee has the right to be accompanied by a colleague or a trade union representative. Employees must make the request in advance of the meeting, to allow the school to prepare and to ensure the employer knows who the companion will be.
- 6.4 An extra copy of the notification of the hearing, together with any enclosures, should be provided for the employee's companion.
- 6.5 If an employee's chosen companion will not be available to meet at the proposed time, the hearing will be postponed to a time proposed by the employee, as long as the alternative time is reasonable and not more than 5 working days after the original date.
- 6.6 Copies of all documents to be relied upon shall be supplied to the disciplinary panel and all parties concerned at least 3 working days before the date of the hearing to allow time for consideration.
- 6.7 The employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.
- 6.8 The companion can address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. 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.

7. Disciplinary action

7.1 The disciplinary panel will adjourn the hearing to consider the facts provided and decide the action to be taken. Where possible, the disciplinary panel will then reconvene the hearing once a decision has been reached. Alternatively, if a longer period of time is required for the panel to consider the decision, all parties will be informed of this and the decision will be communicated in writing. In all cases, the decision will be confirmed in writing to the employee and their companion as soon as possible and usually within 5 working days of the hearing, to include:

- The sanction (if any) and the period this will remain current.
- Their reasons for the decision.
- The change in behaviour required (if relevant) and the likely consequences of further misconduct.
- Right of appeal

A verbal or informal warning

7.2 A verbal or informal warning may be given where it is decided that the action was not serious enough to warrant a formal written warning. This may be accompanied by a notification that arrangements will be put in place to improve the employee's behaviour, such as a training course or occupational health support

First Written Warning

7.3 Period kept on employee's record – 6 months.

7.4 The disciplinary panel may give the employee a first written warning which will include a statement that any further complaint of misconduct occurring within the next six months that is found justified after a disciplinary hearing, will lead to a final warning unless there are mitigating circumstances.

7.5 A written warning must be a formal letter and may be issued by email, first-class post (registered post) or, preferably, delivered by hand. Confirmation of receipt must be received.

Final Written Warning

7.6 Period kept on employee's record – 12 months

7.7 A final written warning may be given where the employee has already received a first warning, or where the employee's misconduct was sufficiently serious. This will include a statement that any further complaint of misconduct occurring within the next twelve months that is found justified after a disciplinary hearing, will lead to demotion or dismissal unless there are mitigating circumstances.

Dismissal

7.8 The power to dismiss an employee following a disciplinary hearing rest with the disciplinary panel.

7.9 If a further complaint is received before the final written warning has expired, the complaint will be referred to a hearing before the disciplinary panel following the same formal procedure as previously. The disciplinary panel will be advised by the Trust's HR manager.

7.10 If the disciplinary panel decides to dismiss the employee, the disciplinary officer will confirm the decision and right of appeal in writing to the employee (and their companion) as soon as possible and normally within 5 working days of the hearing. The disciplinary officer will record the outcome of the panel's considerations and the names of persons present at the hearing.

7.11 The issue of a notice of dismissal will:

- be in writing or confirmed in writing in a formal letter;
- be sent by first class post (registered post) or delivered by hand (where practicable);
- explain the reasons for the action;
- explain the right of appeal;
- be copied to the employee's trade union or professional association representative.

8. Gross Misconduct

- 8.1 If the complaint is considered so serious that it may amount to gross misconduct, justifying dismissal without previous warning and without notice (see the Disciplinary Rules at Appendix 1), the employee may be informed by the headteacher, CEO or the chair of the board of trustees that they are suspended on full pay pending further investigation of the complaint.
- 8.2 If, following an investigation, the investigating officer considers that the facts of the case amount to a prima facie case of gross misconduct, the matter will be referred to the CEO and/or the chair of the board of trustees (dependent on the role of the employee who is being investigated).
- 8.3 If, on the conclusion of the disciplinary hearing, the disciplinary panel considers the complaint constitutes gross misconduct, they may decide to dismiss the employee without notice or pay in lieu of notice.
- 8.4 The disciplinary panel will take advice from other associated parties (for instance the Local Authority Designated Officer and/or police) if any further action is required. A referral to the Teaching Regulation Agency may be made. In cases where it is found that a person has caused harm or poses a future risk of harm to children, a referral to the DBS will be made.
- 8.5 Where a suspension has taken place that suspension may only be lifted by the headteacher, CEO or the chair of the board of trustees as appropriate to the role of the employee.

9. Decision to dismiss

- 9.1 The disciplinary panel has the authority to dismiss an employee.
- 9.2 The disciplinary panel will take advice from a person with the appropriate experience to advise the committee (e.g. HR, legal advice)
- 9.3 The employee will be informed as soon as possible (usually within 5 working days) of the outcome of the disciplinary hearing. If the decision is made to dismiss the employee, the employee will be informed of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

10. Appeals

- 10.1 If an employee feels that a decision to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing against the decision. The appeal must be lodged with the disciplinary officer, in writing, within 15 working days of the date of the decision letter and setting out the grounds for appeal.
- 10.2 An appeal against a written warning or dismissal will be heard by an appeal panel comprising a senior leader/manager plus two senior leaders, governors or trustees, none of whom shall have

had any previous involvement in the case. The appeal panel may have an HR/legal adviser present

- 10.3 All appeal hearings will be held without unreasonable delay and, where possible, within 15 working days after receipt of the appeal. They will be held at an agreed time and place (in person, or over video conferencing if relevant). An employees' statutory right to be accompanied by a companion will apply as with formal disciplinary meetings. Notes will be taken and a copy sent to the employee.
- 10.4 The clerk to the board of trustees will usually undertake administrative arrangements for the appeal panel hearing.
- 10.5 The outcome will be confirmed in writing as soon as possible and usually within 5 working days of the appeal hearing. The employee will be notified if any additional time is required for consideration of the appeal.
- 10.6 The appeal panel may:
- Confirm the written warning, reduce a final written warning to a first written warning, or cancel the written warning.
 - Uphold or overturn a decision to dismiss
 - Issue a lesser sanction
 - Recommend reinstatement
- 10.7 If the appeal panel decides not to uphold the decision to dismiss, the employee will be reinstated without loss of pay.
- 10.8 An appeal decision will be final and there will be no further right of appeal.

11. Variation in disciplinary action

- 11.1 If appropriate, the disciplinary panel may decide to take informal action instead of giving a first written warning.
- 11.2 The disciplinary panel may decide the misconduct is so serious that it justifies a first written warning, without any informal action being taken.
- 11.3 The disciplinary panel may decide the misconduct is so serious that it justifies a final written warning, without any previous written warning having been given.
- 11.4 Rather than recommend dismissal, the disciplinary panel may decide to issue a lesser sanction.
- 11.5 Where the appeal panel overturns a decision to dismiss or to issue a written warning, they may substitute a lesser sanction.

12. Expiry of action

- 12.1 Should any action be withdrawn or, as a result of a hearing, a decision is made to take no action, this shall be recorded on the employee's personnel records immediately.
- 12.2 All formal warnings shall normally expire after a period of satisfactory conduct and performance of 6 months (first written warning) and 12 months (final written warning).
- 12.3 In exceptional circumstances and particularly when the misconduct relates to the safety and welfare of pupils, the disciplinary panel may consider that the warning period should exceed this. This must be determined when the sanction is issued. The warning should include a statement of how long it will be retained on file, when it will be reviewed, who will review the warning and on

what grounds, and refer to the employee's right to make representations for the warning to be expunged as part of the review. The 'exceptional circumstances' referred to above will be justified at the time of decision and the employee may appeal. Where possible the review should be undertaken by the individual (or their successor) or body who issued the warning. The basis for the review will be the conduct of the employee during the period since the issue of the sanction, in relation to the area of misconduct. Even where there are no concerns during the intervening period the review may conclude that the sanction should not expire yet owing to the serious and particular nature of the misconduct. The employee has the right to make representations for the expunction of a warning and to appeal any decision not to expunge a warning.

12.4 The employee should be notified when the record has been expunged.

13. Absence during a disciplinary procedure

13.1 Where an employee, against whom the allegations of misconduct/gross misconduct have been made, is away from work due to sickness absence or absence without leave, appropriate consideration will be given to when and how the investigation takes place or the disciplinary meeting held. If an employee is absent due to sickness, medical advice may be sought from occupational health.

13.2 Where an absence appears to be ongoing and without the prospect of return within a reasonable timescale, arrangements will be made as appropriate to investigate the allegations in the most effective way possible. If the employee cannot or will not attend the meeting, the meeting may be held in their absence and a decision made and communicated to them in writing.

14. Resignation during a disciplinary procedure

14.1 If an employee resigns during the disciplinary procedure, a disciplinary hearing will still be convened and the process will continue to its conclusion despite their resignation. Where necessary, the employee/ex-employee is unable to attend the disciplinary hearing, the case will be heard in their absence. Any disciplinary sanction applied will be communicated to the individual.

15. Trade Union Representatives

15.1 Where disciplinary action is being considered against an employee who is a trade union representative the disciplinary officer will discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement, prior to the normal disciplinary procedure commencing. The procedure will continue as normal.

16. Confidentiality

16.1 The disciplinary procedure will be treated confidentially. All individuals involved in a disciplinary matter must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

17. References

17.1 All employees should be aware that in order to support transparency and safer recruitment across the sector, any formal disciplinary sanctions (excluding spent sanctions) received by a member of staff will be declared to any potential new employer.

18. Support for employees

- 18.1 We recognise for any employee who is subject to disciplinary action this may be a difficult time for them. Going through a disciplinary procedure can be very stressful, ONE Academy Trust will consider the wellbeing and mental health of those involved.
- 18.2 An approach to supporting employees involved and offering support is designed to prevent: absence, mental health issues arising and/or existing mental health getting worse. Practical examples of such support may involve, but are not limited to:
- Managing and minimising the stress caused by the process
 - Advising individuals to contact their trade union representative or a colleague for support
 - Providing access to counselling or medical advice where appropriate. This may involve support via the trust's occupational health arrangements.

19. Disciplinary procedures during extreme circumstances

Logistics

- 19.1 Disciplinary proceedings still apply in the face of unforeseen and/or uncontrollable circumstances, such as national directives linked to maintaining public health interests and emergency situations (e.g. school closure due to fire damage, health and safety etc). ONE Academy Trust will decide whether it is fair and reasonable to carry on with or start disciplinary proceedings in such circumstances.
- 19.2 ONE Academy Trust will carefully consider the safety, health and wellbeing of employees when deciding whether and how to proceed. It is acknowledged that going through a disciplinary procedure can be stressful in normal times, and employees might be facing other stressful circumstances at this time too.
- 19.3 Senior leaders will talk through the options with all involved before deciding whether or not to proceed, including taking advice. Whether the senior leader decides to go ahead with the procedure or postpone it, they should explain their decision to those involved. This will help everyone to be clear about what has been agreed upon and why.

If the workplace is still open

- 19.4 If all those involved in the procedure are still going to the workplace, the senior leader should consider whether the procedure can be carried out safely. For example, if interviews and meetings can be held safely during an investigation.

If people are working from home

- 19.5 If some or all of those involved in the procedure are working at home, the senior leader will need to decide if the procedure can still be carried out in a fair and reasonable way. Consideration should be given to:
- the individual circumstances and sensitivity of the case, for example, if it needs to be dealt with urgently, or if it would be dealt with more fairly when people are able to return to the workplace
 - if anyone involved has a reasonable objection to the procedure going ahead at this time

If a senior leader goes ahead with a disciplinary procedure

- 19.6 If the employer decides to continue or start a disciplinary procedure, they must follow the process outlined within this policy. Failure or inability to do so may affect the decision-making process, the 'fairness' of the outcome and the appeals process:

The right to be accompanied

19.7 The right for an employee to be accompanied at a disciplinary hearing still applies. The employee's chosen companion must be able to attend the hearing, even if it's being carried out through a video meeting.

19.8 The hearing must be set up to allow the employee's chosen companion to:

- put and sum up the employee's case
- respond on behalf of the employee to anything said
- talk privately with the employee at any point

19.9 If the companion is unable to attend at the time or date of the hearing, the employee has the right to suggest another time and date. This is as long as it's reasonable and not more than 5 working days after the original date.

19.10 The employer must always act fairly to avoid unfair dismissal.

Recording video meetings

19.10 For disciplinary meetings held by video, there will be no reason to record the meeting. If it is felt that there is a good reason to record it, this must be done in line with data protection law and trust policies.

The employee's right of appeal

19.11 The employee's right of appeal still applies

20. Record keeping and data protection

20.1 Notes/minutes will be kept of all interviews and meetings and the actions agreed. Where possible, these will be confirmed as an accurate reflection of what was discussed during the meeting.

20.2 Records will be kept securely, only for as long as necessary and in line with data protection law, our privacy notices and records retention schedule.

20.3 If action is taken, a record of this will be added to the employee's personal file.

20.4 We will disclose any proven offences by an employee if a reference is requested by a future employer.

20.5 Personal data will be treated as confidential and will only be processed and shared in line with our data protection responsibilities under the Data Protection Act 2018 and the UK GDPR.

20.6 All correspondence and documentation should be classified and marked as confidential.

Monitoring and review

20.7 This policy will be reviewed every 3 years as a minimum but can be revised as needed.

20.8 This policy will be approved by the board of trustees.

Appendices

Instances and behaviours classed as misconduct (the “Rules”)

In accordance with the provisions of the Employment Rights Act 1996, and the ACAS Code of Practice "Practice and Procedure in Employment", this is to notify you of the ONE Academy Trust Rules.

Gross Misconduct

Gross misconduct is a serious breach of contract and includes misconduct which, in our opinion, is likely to prejudice our organisation or reputation or irreparably damage the working relationship and trust between us. If you are suspected of committing an act of gross misconduct, you may be suspended with full pay pending an investigation. Gross misconduct will be dealt with under our Disciplinary Procedure and will normally 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. This list is intended as a guide and is not exhaustive:

- Behaviour that has or may have harmed a child or behaviour towards a child or children that indicates you would pose a risk of harm to children, for example:
 - Sexual behaviour towards or relations with a pupil.
 - Physically harming a pupil.
 - Targeted mental abuse of a child impairing their natural development pathway
 - Criminal offences related to or against a child.
- Behaviour that indicates, or may indicate, that you may not be suitable to work with children.
- Criminal activities or offences, whether committed at work or not, that may affect our reputation or otherwise affects your suitability and/or ability to continue in employment.
- Sexual misconduct, whether at work or not and, whether criminal or not.
- Acts of physical or threatened violence, vandalism, bullying or behaviour which provokes violence.
- Possession, use, supply or attempted supply of illegal drugs or any other inappropriate substances, whether illegal or not.
- Being under the influence of alcohol or other substances that make you unfit to perform your duties during working time, or the illegal use of drugs at any time.
- Deliberately accessing internet sites containing pornographic, offensive or obscene material on our equipment or during working time.
- Communicating offensive, obscene or unauthorised sexually explicit material whether verbally, written, in electronic communication, or by social media.
- Serious negligence, serious neglect of duties or, a serious or deliberate breach of your conditions of employment, operating procedures, public examination rules, DfE statutory requirements, statutory rules affecting your work, Health and Safety rules, for example:
 - Failure to comply with the Prevent Duty.
 - Failure to report safeguarding concerns.
 - Failure to exercise proper control or supervision of pupils.

- Disclosure of restricted public examination material or content.
- Falsifying sickness absence.
- Ignoring handling instructions/responsibilities/safety regulations including those in relation to chemicals, machinery, equipment or food.
- A serious breach of our Staff Code of Conduct.
- A serious breach of our Drugs and Alcohol Policy
- A serious act of insubordination.
- Dishonesty associated with the place of work or job being undertaken, for example:
 - Theft or unauthorised removal or misuse of property.
 - Fraud, forgery or other dishonesty, including fabrication of expense claims, timesheets, qualifications, application forms, public examination forms and any other forms or records in use, falsification of any information given on your application form for a post, entitlement to work (including immigration status) to gain employment or other benefits or falsification of registration of pupils.
 - Demanding or accepting monies or other considerations as a bribe for the use of our property or provision of our service.
 - Failure to disclose criminal convictions, cautions, bind over orders reprimands or warnings (except those which are 'protected' under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended from time to time) or, failure to disclose during the course of your employment an arrest or summons for an offence, a conviction, a bind over order, a reprimand or a warning given by a police force.
 - Undertaking unauthorised paid or unpaid employment during working hours, including during periods of sickness absence.
 - Abuse of Authority
- Unauthorised use or disclosure of confidential information or personal (or information which is of a confidential nature) or failure to ensure that such information in your possession is kept secure.
- Making statements that are or could be damaging, slanderous or libellous whether verbally, written, in electronic communication or by social media, which could be harmful to a pupil, an employee or other worker, a governor, a member of the public, or our reputation.
- Serious acts of bullying, classified as harassment (see below) or otherwise
- Unlawful harassment or victimisation of, or unlawful discrimination against, a pupil, an employee or other worker, a governor, or a member of the public linked to protected characteristics (Equalities Act 2010).
- Victimising a person who has raised concerns, made a complaint, given evidence or information under our policies, e.g. Grievance Procedure, Whistleblowing Procedure or otherwise.
- Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith against a person or, making untrue allegations in bad faith against a person.
- Publishing information (including speech, writing or other communication in whatever form, which is addressed to the public at large or any section of the public) linked to an allegation which could lead to the identification of the adult involved
- Bringing the organisation into serious disrepute.

Misconduct

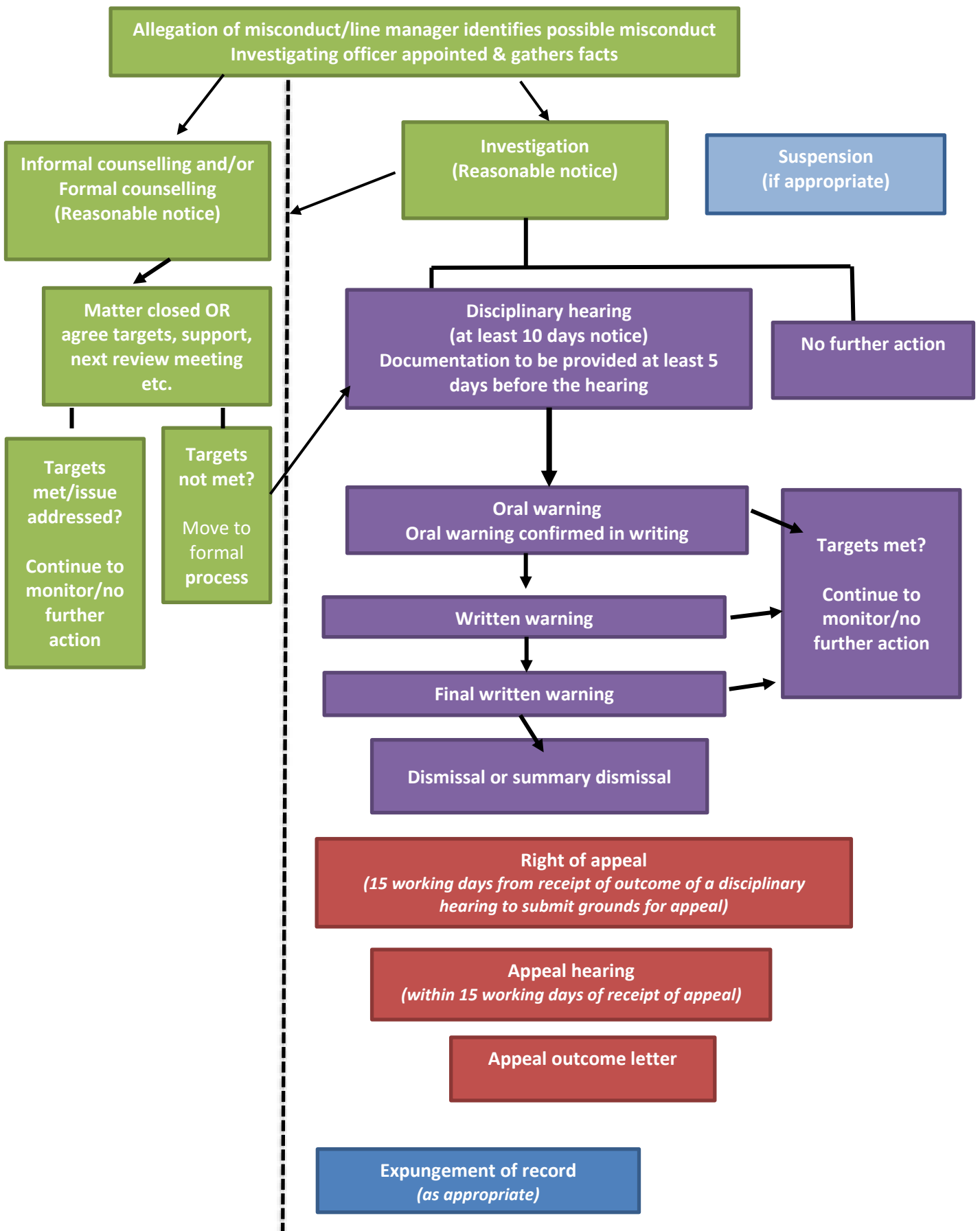
The great majority of breaches of rules will not be sufficiently serious to warrant dismissal without previous warning. The following are **examples** of matters that are normally regarded as misconduct. This list is intended as a guide and is not exhaustive:

- Refusal to comply with the reasonable and lawful instructions of management.
- Negligence in the performance of duties.
- Negligence in the administration of statutory tests and examinations.
- Failure to attend work regularly and punctually during agreed working hours; failure to report/inability to attend work due to illness for any other reason, promptly, and in accordance with the ONE Academy Trust procedures; unreasonably prolonging absence by neglecting to act on medical advice.
- Unauthorised absence and/or leaving the workplace without permission.
- Misconduct in relationships with other members of staff, pupils, or members of the public, to include conduct that is not in accordance with the principles of mutual trust, respect and courtesy.
- Swearing or abuse of members of staff, pupils, or members of the public.
- Non-compliance with the sickness absence policy, special leave of absence policy or pay policies.
- Falsification of qualifications or information other than those which are a statutory requirement for employment.
- Abuse of position – using an official position for private advance or the private advantage of some other person.
- Criminal offences – where the offence/alleged offence has employment implications but is not sufficiently serious to constitute gross misconduct.
- Employees whose posts are subject to Disclosure and Barring Service (DBS) checks – failure to notify line management of any activity likely to result in subsequent criminal investigation, conviction or police caution being served.
- Damage to ONE Academy Trust property – deliberate damage, misuse, or use without the authority of the property of ONE Academy Trust, fellow employees, or other members of the school or trust community.
- Discrimination – against a member of the public or colleagues on grounds of sex, sexual orientation, marital status, age, race, creed, colour, ethnic or national origin or disability.
- Rules – failure to observe the provisions of the ONE Academy Trust financial regulations, policies, codes of conduct and other applicable rules.
- Safety – failure to act in accordance with applicable Health and Safety Policies; any act or omission on the part of the employee which endangers the health or safety of themselves, other employees, school users or members of the public.

[Teacher misconduct guidance](#) from the Teaching Regulation Agency explains that, among other things, the following offences will be serious enough to warrant the prohibition of teaching:

- Serious departure from the personal and professional conduct elements of the Teachers' Standards
- Misconduct seriously affecting the education and/or wellbeing of pupils, and particularly where there is a continuing risk
- Actions or behaviours that undermine fundamental British values
- Abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils
- Sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues

DISCIPLINARY PROCEDURE



Format for the report of an investigation into an allegation

Report date:

Investigation by:

Summary

Summarise the whole of the report in short form with the main findings

Background

This investigation was undertaken to explore the allegations:

Detail the allegations (same wording as used in the disciplinary letters issued to the employee)

Investigation remit

The investigating officer was asked to:

- Gather the facts
- Assess the facts
- Identify the allegations as displayed by the facts
- Ascertain a reasonable belief based on the information gathered
- Determine whether there was a prima facie case for disciplinary action
- Determine whether a disciplinary meeting should be convened
- Produce documented evidence and present the facts
- Make any other recommendations

Method of investigation

- The investigating officer will contact all relevant witnesses and arrange to interview them.
- All parties should understand that the investigation interview should be conducted formally
- The investigating officer should explain to witnesses that their anonymity cannot be preserved unless evidence suggests that revealing their identity may put them at risk.
- Interviewee will be provided with a copy of the notes and asked to check and sign to confirm the notes are an accurate record of the meeting.
- All parties may be accompanied by a representative (TU representative or work colleague of choice) as a support through any investigation interview. If the witness does not want representation the investigating officer should report that in the notes of the meeting.
- The interview should include an exploration of the circumstances surrounding the suspected or alleged offence
- The investigating officer should rigorously check facts e.g. how many times has the employee said/done what has been alleged and over what period
- The investigating officer should review training records, policies, internal documentation etc. where required as part of the investigation
- The investigating officer should assess the information objectively and without prejudice

towards an individual

- The investigating officer should explore any mitigating factors
- The investigations should be concluded without undue delay

Main Points

Detail the evidence and findings from the investigation in this section of the report. A chronology of events should be detailed in date order and referenced to the appendices

Summary/conclusion

For each allegation the evidence that supports it and the evidence that goes against should be presented, along with any mitigation. Any apparent conflicting evidence will also be highlighted. For each allegation the investigating officer should conclude one of the following:

- Whether there is a case to answer
- Whether there is no case to answer
- Whether there is insufficient evidence or conflicting evidence to determine whether there is a case to answer

The investigating officer should explain their reasons for the judgement they have made for each allegation.

Recommendations

The investigating officer should make recommendations about the next steps (e.g. disciplinary action, modification to processes or procedures, training, support, any management action required etc.)

Appendices

Include witness statements, reports, documentary evidence etc.