



BOHUNT
EDUCATION TRUST

Staff Disciplinary Policy

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Disciplinary Procedure

Summary

What is this Procedure about?

This document sets out the procedure employees and their managers are required to follow in the event of disciplinary issues that arise at work. It provides a clear and transparent framework to address misconduct, which may arise as part of the employment relationship. The Procedure ensures that issues are managed fairly and consistently for all employees of Bohunt Education Trust.

How does Bohunt Education Trust check this procedure is followed?

The Human Resources department maintain an overview of disciplinary procedures in accordance with guidance from Advisory, Conciliation and Arbitration Service (ACAS) and other relevant employment legislative bodies.

Who can you contact if you have any queries about this Procedure?

All enquiries should be directed to the HR department – hr@bohunt.hants.sch.uk

1. Introduction

The aim of the Disciplinary Procedure is to provide a clear and transparent framework to address misconduct, which may arise as part of the employment relationship. The Disciplinary Procedures ensures the issues are managed fairly and reasonably, in line with the ACAS Code of Practice for handling disciplinary issues. Employees need to know what is expected of them in terms of standards of conduct (see BET Staff Code of Conduct) and the likely consequences of continued failure to meet these standards.

2. Policy Statement

Managers are responsible for taking action to try to ensure that an employee performs to the standards of conduct expected of them. The responsibility of ensuring that these standards are observed and maintained by all employees, rests with both the individual employee and the appropriate manager in each department.

3. Scope of Procedure

This Procedure applies to all employees of Bohunt Education Trust.

The Procedure is intended to deal with disciplinary problems arising from allegations of misconduct. It is not intended for use in situations concerning performance or capability. The Disciplinary Procedure is designed to help and encourage all employees to achieve and maintain satisfactory standards of conduct and to comply with Bohunt Education Trust regulations

4. General Principles

For minor disciplinary issues, it is the responsibility of the manager concerned to inform the employee and to support and encourage improvement. Wherever possible, matters of minor misconduct should be resolved informally through discussion between the employee and the manager. It may not always be necessary to carry out a formal investigation, e.g. where the facts of the cases are clear and not disputed. In such cases, it may be more appropriate to move straight to the relevant formal procedure and any evidence will be considered at that point. The outline of the process is in Appendix A

4.1 Informal Action

Informal action will be considered, where appropriate, to resolve minor disciplinary problems before moving to the formal procedure. An informal discussion is often all that is required to provide clarification on expected standards which will allow the employee to improve their conduct. The informal discussion can be used to resolve problems quickly and confidentially.

The manager should discuss the concerns with the individual in the first instance before deciding on whether to take any action.

The discussion is aimed at clarifying possible shortcomings in conduct and about encouraging and sustaining improvement. Through discussion it may become evident there is no problem and the manager will confirm this with the employee. Where improvement is required, the manager should ensure clarification and that the employee understands what changes are expected, how their conduct will be reviewed, and over what period. Notes should be made of any informal action and a copy given to the employee. There should be reviews of progress over specified periods. Although informal action is not part of the formal procedure, reference to the informal action may be made in formal hearings where an informal approach has been tried and has not resolved the situation.

If during the discussion it becomes obvious that the matter may be more serious, the meeting should be adjourned and the manager should seek advice from the HR Manager or HR Officer with a view to conducting or commissioning an investigation. There will be situations where matters are more serious or where an informal approach has been tried but has not resolved the situation.

If informal action does not bring about the desired improvement, or the misconduct is deemed too serious to be classed as minor, the manager should consider undertaking formal action. An informal procedure would not be considered appropriate for serious or gross misconduct.

All disciplinary processes should be managed in a fair and consistent manner. The Disciplinary Procedure may be implemented at any stage if the employee's alleged misconduct warrants this. The ACAS Code of Practice should apply to the procedure, and the person whom the allegation has been made against, should have: copies of the allegations and evidence in advance of any formal meeting; the opportunity to oppose the allegations and evidence before decisions are reached and finally the opportunity to appeal any decisions made.

4.2 Investigations

It is important to carry out necessary investigations of potential disciplinary matters, without unreasonable delay, in order to establish the facts of the case. In some instances, an investigatory meeting with the employee will need to occur, before proceeding to any disciplinary hearing. Facts should be obtained from the employee, other relevant staff and witnesses.

Investigating Person

The Investigating Person should be separate to any potential disciplinary hearing and should do the following:

- Arrange to meet with the employee (if necessary) to establish the facts, within a reasonable timeframe.
- Accurate written records should be kept throughout, being mindful that the employee has the right to request copies of all notes taken during the process. Therefore, the Investigating Person should be mindful of sensitive information
- Obtain facts from other persons involved/witnesses and record these in writing – names may be removed in order to preserve anonymity
- Statements should include: date, times and place of incident, witness's observations and any other relevant information
- Consider whether the informant has any reason to fabricate evidence – previous poor working relationship/grievance against the employee/previous unsubstantiated allegations
- Be aware that the investigatory stage/meeting, is not part of the disciplinary procedure and sanction
- Prepare a report for the employer, in order for them to make the decision as to whether a disciplinary procedure needs to be initiated.

Feedback may be given on the outcome of the Procedure to the parties involved e.g. the complainant, but only if it is deemed appropriate and within the principles of confidentiality.

If an employee regularly fails to attend or refuses to attend any formal meeting without good reason, the employer may make the decision to undertake any decisions without the employee being present. The employee's representative i.e. union representative or work colleague may be present if the employee chooses.

4.3 Right to be accompanied

Employees have the right to be accompanied by a trade union representative of their choice or a work colleague during the disciplinary hearing. Employees must request to have a representative present within reasonable timescales. Reasonable timescales may vary depending on individual cases. The representative will be able to address the hearing in order to communicate the employee's case, as well as confer with the employee. However, the representative does not have the right to answer questions on the employee's behalf, addressing the hearing without permission from the employee or prevent the employer from explaining their case. If the representative is unable to attend a proposed meeting, the employee must notify the employer as soon as possible and can suggest an alternative time and date, so long as it is deemed reasonable, and it is not normally more than five working days from the original date.

4.4 Confidentiality

During all proceedings under this procedure, all persons involved must ensure they maintain confidentiality expectations. However, the Trust may need to disclose information where necessary for discharge of duties or as required by law. A breach of confidentiality may be considered as misconduct.

4.5 Right to Appeal

At every stage of the disciplinary procedure, the employee has the right to appeal.

4.6 Record Keeping

A record of all discussions and meetings should be made and follow up records must be kept up to date within the HR Department. Types of records that should be kept are:

- Meetings
- Emails
- Attendance notes
- Notes of telephone calls
- Copies of correspondence

These should include name of persons involved, dates, the nature of and frequency of incidents, action taken, follow up and monitoring information. Managers must be aware that employees have the right to see any documents used as part of the process. All sensitive information should be treated in accordance with data protection law.

4.7 Disciplinary action against a trade union representative

Where disciplinary action is being considered against an employee who is a trade union representative, normal disciplinary procedures will apply. However, it is advisable to make early contact with a senior representative or full time trade union official, after obtaining the employee's permission.

4.8 Grievance

Should an employee raise a grievance or complaint during a disciplinary process that is related to the disciplinary, both issues will be dealt with concurrently. The HR department will nominate a suitable independent manager to carry out the Grievance Procedure and/or to continue the Disciplinary Procedure as appropriate. Grievance procedures will follow a separate process in line with the BET Grievance Policy.

4.9 Sickness absence

Should the employee who is subject to the Disciplinary Procedure become unwell during this time, reasonable adjustments will be made to accommodate a period of absence. However, this may not be appropriate in all cases e.g. gross misconduct or if an employee is persistently unable or unwilling to attend a formal meeting. In this instance, in the absence of an employee, the employer may make a decision with the evidence available and with an employee representative present i.e. a union representative. Advice may be sought from Occupational Health on whether the employee is fit enough to participate in the process.

4.10 Suspension during disciplinary investigation

The Headteacher may suspend the employee from duty without prejudice on full pay, depending on the nature of the allegations. The employee shall be informed of the allegations made and any suspension should be put in writing to the employee and signed by the Headteacher/Head of School. Any suspension period will be for the minimum time necessary. Suspension during the disciplinary process must not be used as a formal or informal sanction.

Some examples of that may lead to suspension:

- To preserve evidence
- To avoid intimidation of witnesses
- To protect a victim from alleged harassment; or
- To protect an employee's or the organisation's property

This list is not exhaustive and an employee could be suspended if it is of benefit to parties involved. Alternative to suspension may mean an employee has a reallocation of duties on a temporary basis.

4.11 Employee rights if suspended

Employees have the same employment rights while suspended.

4.12 Appeals against formal stages

Should an employee feel the disciplinary action against them has been wrong or unjust they may appeal against the decision. The notice of intention to appeal must be lodged no more than ten working days after the date stated on the formal warning/ dismissal letter.

Appeals will be heard without unreasonable delay. Employees must state the grounds for their appeal in writing. The appeal should be dealt with impartially. Employees have a statutory right to be accompanied at appeal hearings. Any results from the appeal should, in normal circumstances, be put in writing to the employee within 10 working days of the final hearing. In exceptional circumstances, there may be a variation of timescales, resulting in the employee receiving their written correspondence later than the intended 10 working days' timescale.

5. Procedure – formal stages

It is recommended that the employer make it known to their employees, as far as possible, the type of offence that will normally lead to disciplinary action. The appropriate manager will judge the seriousness of a particular misconduct in the first instance. See appendix B for examples of misconduct.

5.1 Stage I – Formal Written Warning

5.1.1 Definition

The first Formal Written Warning for misconduct will be issued if conduct does not meet the acceptable standards expected within Bohunt Education Trust. This warning will be in writing, stating the nature of the misconduct; the change of behaviour required and process should the employee wish to appeal this decision. The warning should also inform the employee that should there be no sustained improvement or any further changes in behaviour that are deemed as misconduct, a Final Written Warning may be considered. A written record of the warning will be filed within HR personnel files, but it will normally be disregarded after 12 months of achieving the desired conduct or performance over a sustained period of time.

5.1.2 Procedure

After the manager has undertaken the initial investigations and a discussion has occurred with the HR department, the manager may decide that it is necessary to proceed to a formal meeting. The employee should be notified of this in writing, giving at least five working days' notice. There may be exceptional circumstances that allow this period of time to be extended, if both parties are in mutual agreement. Should either the employer or employee wish to call relevant witnesses, advance notice should be given of this also.

i. The notification to the employee will include:

- Information about the alleged misconduct and possible consequences. This allows the employee the time to respond to the case during the formal meeting.
- Any supporting documentation, including investigation report
- Details of the time and venue of the formal meeting
- The right to be accompanied at the meeting
- The procedures to be followed
- The names and roles of those persons who will attend the meeting including witnesses if applicable

The appropriate member of staff should chair any formal meeting in accordance with the BET Scheme of Delegation (see Appendix C) unless they are implicated in the matter. If this is the case, a manager of a similar/equivalent level should chair the meeting. They should be accompanied by an HR representative or another member of School Leadership.

Before the meeting, the employee will be expected to:

- Confirm attendance
- Witnesses to be confirmed within two working days

- Confirm who is accompanying the employee

ii. At the meeting the employee will be

- Given the right to be accompanied
- Allowed to set out their case and answer any written allegations that have been made
- Given a reasonable opportunity to ask questions, present evidence and call relevant witnesses
- Able to request adjournments to meetings
- Given an opportunity to raise points about any information provided by the witnesses

iii. The Chair of the meeting will:

- Ensure detailed notes are maintained throughout
- Never pre-judge the outcome of the meeting before the employee has had their say
- Start the meeting by stating the complaint to the employee and referring to the appropriate statements
- Give the employee ample opportunity to allow the employee to put forward their position and call any witnesses. Witnesses can only be in the room for the relevant period of time and not the duration.
- Make use of reasonable adjournments to consider and obtain extra information needed before reaching a decision.
- After the meeting, decide whether the alleged misconduct did take place, if any action is required and inform the employee of the outcome in writing.

The Chair, seeking advice from HR as necessary, must give their decision with reasons, taking into account any mitigating circumstances. Review periods must be determined and confirmed as well as information on the how the employee can appeal should they wish to. In most cases, confirmation of the Formal Written Warning will be given within 5 working days of the meeting. However, in exceptional circumstances this time frame may be reasonably extended. Should the decision be made that no further action is necessary, this should be put in writing to the employee.

iv. Formal warning letters should include:

- The nature of the unsatisfactory matters discussed in the meeting
- The action required by the employee to rectify the situation, with timescales
- Disciplinary consequences which may follow if there is no improvement
- The identified person whom the employee may seek guidance in improving their conduct
- The date(s) at which the employee's conduct will be reviewed
- The right to appeal process
- That the record of the Formal Written Warning will normally be kept on the employee's HR file for a period of 12 months

If it is considered that the nature of the offence is such that a specified review period is not appropriate, this should be specifically drawn to the attention of the employee in the Formal Written Warning.

Responsibility for the issuing of all letters, disciplinary correspondence, scheduling of meetings and reviews meeting, lies with the Chair who may seek advice from HR.

5.1.3 Appeal against Formal Written Warning

If an employee wishes to appeal against a Formal Written Warning, they must write to the HR manager stating their reasons. If the employee is relying on evidence for this appeal, they must stipulate this in writing with copies of all relevant documents. The appeal must be lodged with the HR Manager no later than 10 working days after the issue of the Formal Written Warning.

The HR Manager will arrange for the nomination of an independent manager, not involved in the case, to re-examine the case and chair the meeting. The Chair will meet with the employee, who may be accompanied with their union representative or a colleague. In normal circumstances, the Chair of the meeting will advise the employee the outcome of the appeal within 5 working days (exceptional circumstances may impact on this time scale). The result of the appeal could be that the Formal Written Warning still stands or withdrawal of the Formal Written Warning.

5.2 Stage 2 – Final Written Warning

5.2.1 Definition

If the offence is sufficiently serious or there is further misconduct or failure to improve performance during the warning period, a Final Written Warning may be given to the employee. The Final Written Warning will state the reason the Final Warning has been issued, the improvement required and should there be no improvement or further misconduct, the employee may face dismissal. The Final Written Warning will also include the employees right to appeal. In normal circumstances, this should be sent to the employee within a period of 5 working days of the meeting, and a copy placed on the employees file. A record of the warning will be kept, but will normally be disregarded after 12 months have expired, subject to achieving and sustaining satisfactory conduct.

5.2.2 Procedure

This will consist of the of the employee attending a meeting chaired by the Head of School/ Trust representative as appropriate, in conjunction with the HR Manager or HR Officer who may act as advisor and/or minute taker. The employee must be notified of the meeting in writing, giving at least 5 working days' notice.

- i. The notification to the employee will include:**
 - Information about the alleged misconduct and possible consequences so as to enable the employee to respond during the formal meeting.
 - Any supporting documents

- Details of the time and venue of the meeting
- The right to be accompanied at the meeting
- The procedure to be followed.
- The names and roles of those who shall be attending the meeting, including witnesses if applicable.

ii. At the meeting the employee will have/or be:

- The right to be accompanied.
- Allowed to set out their case and answer any allegations that have been made.
- Given a reasonable opportunity to ask questions, present evidence and call relevant witnesses.
- Able to request adjournments to the meeting
- Given the opportunity to raise points about any information provided by witnesses.

iii. The Chair of the meeting will:

- Ensure detailed notes are taken.
- Shall not pre-judge the outcome of the meeting before hearing the employee's perspective.
- Start the meeting highlighting the reason for the meeting and clarifying the complaint to the employee, referring to appropriate statements.
- Give the employee ample opportunity to forward their response and call any supporting witnesses. The Chair may also call witnesses if required. Witnesses must only be in the room for the relevant part of the meeting – not the duration.
- Make use of adjournments by taking breaks to consider and obtain any extra information before reaching a decision.
- After the meeting, decide on whether the alleged misconduct did take place, if any action is justified and to inform the employee accordingly in writing.

The Chair of the meeting must give the decision with reasons; taking into account any mitigating circumstances, confirm review periods and stipulate details of how to appeal the decision if the employee feels this is necessary. The Final Written Warning, which includes the right to appeal, will be handed or sent to the employee normally within 5 working days of the meeting and a copy placed in the employee's personnel file. If the Chair decides no further action is required, this should be communicated to the employee in writing.

iv. A final written Warning will be issued in writing stating:

- The nature of the unsatisfactory matter(s) dealt with at the meeting
- The action required by the employee to remedy the default
- That the Final Written Warning has been issued and that any further cause for complaint may result in dismissal
- The name of the manager from whom the employee may seek further support in improving their conduct
- The right to appeal
- That a record of the Final Written Warning will normally be kept in the employee's personnel file for a period of 12 months
- The date(s) upon which the employee's conduct will be reviewed.

Where an employee is persistently unable or unwilling to attend a formal meeting without good cause, the employer may make the decision based on

the evidence to hand, in the absence of the employee, but with a representative, i.e. union representative or colleague may be present.

5.2.3 Appeal against Final Written Warning

If an employee wishes to appeal against the decision of a Final Written Warning, they must do this in writing addressed to the HR Manager clearly stating their reasons. The employee should also stipulate whether they are proposing to rely on new evidence, and if so they should provide details and a copy of any relevant documentation. Any appeal must be lodged no later than 10 working days after the issuing of the Final Written Warning. The appeal will be heard by the delegated person, who has not been previously involved, as per the BET Scheme of Delegation (see Appendix C).

The delegated person will chair the meeting and interview the employee, who may be accompanied by a trade union representative or a work colleague. The employee will be informed of the result of the appeal normally within 5 working days. The result could be, confirmation of Final Written warning, withdrawal of Final Written Warning or withdrawal of the Final Written Warning and a substitute of a Formal Written Warning being issued instead.

5.3 Stage 3 - Dismissal

5.3.1 Procedure

In the event of a Final Written Warning not being complied with or in the event of an alleged gross misconduct the delegated representative (as per the BET Scheme of Delegation see Appendix C) will chair a meeting with the employee, along with the HR Manager or HR Officer acting as advisor and/or note taker. The employee will be informed in writing of:

- Information about the alleged misconduct and possible consequences to enable to the employee to respond at the formal meeting
- Any supporting documentation
- Details of the time and venue for the formal meeting
- The right to be accompanied to the meeting
- The procedure to be followed
- The name and roles of those who will attend the meeting including witnesses if possible.

The delegated person to oversee the procedure will have the power to dismiss or to take any other appropriate action. The decision will be confirmed in writing to the employee concerned and as appropriate, the union representative or work colleague, normally within 3 working days. Written confirmation will state the reason for dismissal and highlight the right to appeal. Other than in cases of gross misconduct, the colleague will be given notice of the termination of employment in accordance with the employee's contract or payment in lieu of notice.

The effective date of dismissal will be the date of the formal written dismissal letter.

5.3.2 Gross Misconduct

A decision to dismiss will normally follow the issuing of a Final Written Warning, except in the most serious cases of misconduct, where immediate disciplinary action is required. Instances of gross misconduct may warrant summary dismissal, which is dismissal without notice and without having proceeded through the warning stages. Gross misconduct is behaviour so serious that it has caused the employment relationship to irretrievably breakdown, thus bringing the employment contract to an end. A member of staff may also be suspended without notice, should a substantiated allegation of abuse towards a child be made against them. In circumstances where by an adult has:

- Behaved in a way that has harmed a child or may have harmed a child
- Possibly committed a criminal offence against or related to a child
- Behaved towards a child or children in a way that would pose a risk of harm to children

Contact should be made with the Local Authority Designated Officer (LADO) in conjunction with support from the school's Designated Officer. The school will also refer to the DfE statutory guidance within the Keeping Children Safe in Education document.

The delegated person will chair a meeting as set out in 5.3.1. Should the gross misconduct be proven, a summary dismissal, which is dismissal without prior notice or payment in lieu, may follow. If summary dismissal is decided, a dismissal letter should be handed or sent to the employee normally within three working days, stating the reasons for dismissal, as well as highlighting the right to appeal.

The effective date of dismissal will be the date of the formal written dismissal letter.

5.3.3 Appeal against dismissal

An employee, who has been dismissed, does have the right to appeal the decision. Any appeal will need to be made to the CEO of Bohunt Education Trust within 10 working days of the date stipulated on the dismissal letter. The employee again must state the full grounds of their appeal, and if they are proposing to rely on new evidence, the employee must give clear details in writing and copies of any relevant documents.

In most cases the CEO of BET shall notify the employee within 10 working days (exceptional circumstances may dictate/lengthen this time scale):

- The date, time and venue of the appeal hearing
- The right to be represented or accompanied to the hearing by a colleague or recognised trade union representative
- The names of the persons to be present at the hearing
- The names of any person(s) attending to present the reason for the decision to dismiss on behalf of Bohunt Education Trust.

The employee's representative should be notified in writing, of the date, time and venue of the hearing at least six working days before the hearing date.

The employee should make all reasonable steps to attend the appeal hearing. The Appeal Panel will exercise their right to proceed in the employee's absence where the employee:

- Indicates to the Appeal Panel that they do not wish to exercise their right to be heard
- Fails to attend or leaves the Appeal Hearing
- Requests postponement or adjournment of the Appeal Hearing without good cause.

Should the employee not attend the Appeal Hearing, at the employee's request, the employee's representative may be present at the Appeal Hearing, in order to put forward the employee's case, summing up and responding on the employee's behalf to any view expressed at the hearing.

5.3.4 Appeal hearing against dismissal

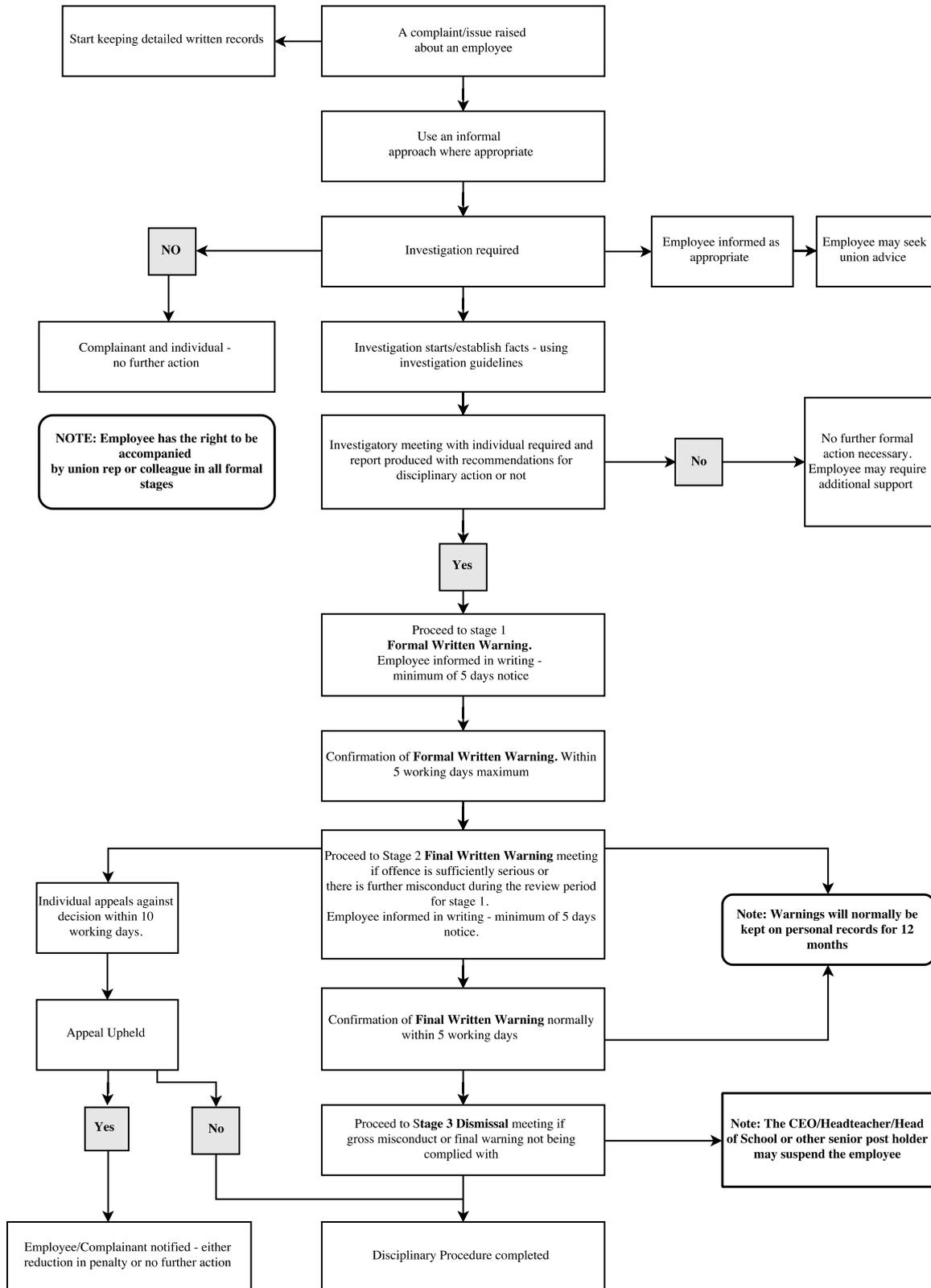
Appeal Panels will consist of the relevant members of staff, in accordance with the BET Scheme of Delegation document (see Appendix C).

- At least 5 working days prior to appeal hearing, all parties will receive the documents to be relied upon by the appellant and their representatives
- The hearing of the appeal will follow the predefined appeals process
- In normal circumstances, the employee will be notified in writing of the outcome of the appeal within three working days of the appeal hearing. The individual's known private address will be the address used for correspondence.

The decision of the Appeal Panel will be final.

Appendix A Flowchart of procedure

Appendix A - Flowchart of procedure



Appendix B Examples of misconduct/gross misconduct

Misconduct that may warrant action under the appropriate stage of the disciplinary procedure includes:

- Persistent lateness
- Unauthorised absence from work
- Unauthorised or inappropriate use of school facilities and resources (including the internet, e-mail, IT hardware or software), action contravening the school's acceptable use policy or action leading to the loss of data or contravention of the Data Protection Act or any damage to the school's IT resources
- Inappropriate use of personal IT facilities and resources (including internet, email, social networking sites and IT hardware and software) where this use is not compatible with the expectations of adults working with children
- Wilful failure to comply with a reasonable instruction from a member of senior management
- Persistent minor breaches of health and safety requirements
- Foul or abusive language
- Unauthorised disclosure of examination material or unauthorised assistance to pupils prior to or during examinations
- Discrimination, harassment, victimisation or bullying on any grounds which are not sufficiently serious to fall into the category of 'gross misconduct'
- Actions inconsistent with the GTC Code of Conduct and Practice for Registered Teachers and/or the BET Staff Code of Conduct

Gross misconduct, which, due to its nature is incompatible with the expectations of staff working with children and young people and may lead to a suspension from post prior to consideration of dismissal. This includes:

- Unauthorised removal of the school's property
- Serious discrimination, harassment, victimisation or bullying on any grounds
- Offences of dishonesty
- Serious breaches of health and safety requirements
- Sexual offences
- Serious criminal offences which undermine the employee's ability to perform his/her job
- Sexual misconduct at work
- Persistent wilful failure to comply with a reasonable instruction from a member of senior management
- Physical assault and/or fighting
- Repeated unauthorised absences from work
- Actions which bring the school into serious disrepute
- Drunkenness or serious misconduct at work brought on by misuse of alcohol, drugs or any other substance misuse
- Falsification of timesheets, subsistence and expenses claims, accounts, budgets, self-certification forms
- Theft
- Malicious damage to the school's property
- Serious breach of confidence
- Causing loss, damage or injury through serious negligence
- Accessing and/or downloading (via school resources) and/or possession at school of inappropriate material (i.e. pornographic, offensive or obscene material)

- Initiating and/or maintaining inappropriate online relationships with pupils, young people or vulnerable adults through social networking sites, text messaging, instant messaging or other IT media
- Deliberately accessing and/or downloading via personal, school or other resources, and/or possession of obscene material containing images of children
- Inappropriate relationships with pupils, young people or vulnerable adults
- Other actions and personal behaviour which are incompatible with the expectations of staff working with children and young people
- Deliberately aiding or encouraging another individual to undertake any of the above actions
- Serious actions inconsistent with the GTC Code of Conduct and Practice for Registered Teachers and/or the BET Staff Code of Conduct

Appendix C

Bohunt Education Trust - Scheme of Delegation for Disciplinary Cases and Dismissals

Please refer to the BET website: <http://www.bohunttrust.co.uk/statutory-info/governance/>