



Extend Learning
Academies Network

Disciplinary Policy and Procedure

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ELAN Disciplinary Policy and Procedure

1 Introduction

ELAN expects all its employees to recognise their obligations to their school, the public, pupils and other employees and to conduct themselves properly at all times and in accordance with its Staff Code of Conduct.

Appendix 1 gives examples of misconduct and gross misconduct but these lists are not to be treated as exhaustive.

2 Purpose

To achieve high quality and efficient education and good employee relations this procedure aims to:

- Improve conduct primarily by advice and correction rather than by disciplinary measures
- Provide a fair method of dealing with alleged breaches in standards of conduct

3 Principles

ELAN operates a value and principle-driven approach to managing performance and the disciplinary process. At all times there will be a fair, reasonable, objective and inclusive approach to the decision making process, based on a thorough investigation of the evidence in line with ELAN values.

4 Scope

This procedure applies to all employees (teaching and support staff) employed by ELAN who either (a) have a permanent contract of employment, or (b) are fixed-term employees with more than six months' continuous service. It does not apply to employees subject to probation, who are subject to separate procedures.

5 Equal Opportunities

The disciplinary procedure must always be applied fairly and in accordance with employment law and ELAN's Equality and Equal Opportunities Policy.

6 Responsibilities

ELAN is responsible for maintaining fair, reasonable, consistent and objective procedures for matters relating to staff discipline.

The headteacher has overall responsibility for the internal organisation, control and management of each school in accordance with the Trust scheme of delegation and headteacher accountabilities.

The members of the SLT (central and school senior leadership team or designated senior manager) have responsibility for the internal organisation, control and management of their area of responsibility. ELAN Human Resources has responsibility to advise, empower and audit evidence of compliance to this policy and process.

All employees have a responsibility to ensure they perform to the standards associated with their role and cooperate with this policy when required.

7 Timing

Disciplinary matters should normally be conducted within the timescales laid down in the procedure. However, if there is a valid reason to do so, timescales can be varied by either

party. If this is initiated by management, the employee should be given an explanation and informed when a response or meeting can be expected. All efforts should be made by employees to attend meetings that constitute part of this procedure. When there are valid reasons to reschedule meetings then these should be rearranged without undue delay.

8 Informal Action

Less serious breaches of conduct (i.e. first occurrences of some types of misconduct) can be dealt with informally by counselling the employee (see Appendix 2 for flow chart of the disciplinary procedure process).

This involves drawing to the employee's attention the unsatisfactory conduct, explaining what conduct is required, and setting a clear and reasonable timescale for the employee's conduct/behaviour to improve. Where a specific informal management guidance or instruction is issued, this should be confirmed to the employee in writing.

Consideration should be given to any difficulties which an employee may be facing and a genuine attempt should be made to help the employee to overcome them. Where considered appropriate, managers should speak to HR to organise any occupational health support when managing employees who may have reduced capacity for whatever reason such as suffering from mental illness, alcohol or substance abuse.

In some cases, it may be beneficial to use ELAN HR or external mediators to resolve conflict in the workplace.

HR must be consulted prior to the initiation of any formal disciplinary action.

9 Disciplinary Sanctions

The following formal stages of disciplinary action can be taken for breaches of conduct (see Appendix 1).

Warnings are typically progressive from First to Final except for:

- Cases of gross misconduct (which if substantiated through the disciplinary process may result in summary dismissal with no entitlement to statutory notice).
- Cases which are less serious than gross misconduct but warrant a Final Warning being issued regardless of prior formal warnings.

Disciplinary Action	Authority to Issue	Typical Duration of Live Warning
First written warning	Member of SLT/Chair of Disciplinary Panel	9 months
Final written warning	Member of SLT/Chair of Disciplinary Panel	12 months
Dismissal	Chair of Disciplinary Panel	N.A.

Further misconduct may occur during the term of a first written warning. Where this results in a formal hearing and a final written warning is issued, the duration of the final written warning will supersede that of the first written warning.

Upon expiry, all disciplinary warnings will be removed from an employee's personnel file except for warnings relating to the safety and welfare of children or young people.

An employee with a final written warning on file who is alleged to have committed a further occurrence of misconduct must be treated as if the allegation was of gross misconduct. This

is because if the allegation is substantiated, the employee will be dismissed. Therefore letters to the employee should include the warning of dismissal (as for allegations of gross misconduct).

Where a member of teaching staff is dismissed, misconduct cases that relate to the safety of children and young people will be referred to the government Disclosure and Barring Service (DBS). All other cases of teacher misconduct resulting in dismissal will be referred to the General Teaching Council for England (GTC).

10 Disciplinary Investigations

The Investigating Officer

The headteacher or member of the SLT is responsible for appointing an independent and objective Investigating Officer who must be competent to undertake the role (see Appendix 2 for flow chart of the disciplinary procedure process).

Investigations should normally be carried out by the immediate line manager. If this is impractical or inappropriate, another Investigating Officer should be chosen. Alternatives to the line manager could include an employee of equal or more senior status within the school, or as nominated by ELAN.

The case must be thoroughly investigated, clearly written and supported by evidence.

Pre-Investigation Stage or Management Investigations

In certain cases, it may be necessary to gather information regarding complaints, incidents and allegations before the start of a disciplinary investigation.

This type of information gathering is only appropriate for prima-facie serious allegations which are particularly sensitive or complex to determine whether:

- There is any substance to the complaint and a full disciplinary investigation is appropriate
- The allegations warrant suspension of the employee

This is not a formal stage of the procedure and would not be considered within the stipulated timescales of the procedure, but must be carried out as speedily as possible.

Any information uncovered at this stage would be provided to the Investigating Officer as appropriate.

Timescales for Investigations

All allegations and complaints against employees must be investigated without delay (particularly in cases of potential gross misconduct). The headteacher/member of the SLT should ensure the Investigating Officer has reasonable time off from normal duties to complete the investigation thoroughly and promptly.

As a guide, from the time the Investigating Officer begins their investigation, the investigation report should be completed within 15 working days (actual school days for term time only staff) for allegations of misconduct and other cases where the fact finding is relatively straightforward.

For allegations of gross misconduct and more complex cases, the investigation process should take no longer than 20 working days (unless agreed by mutual consent in advance). In very complex cases or exceptional circumstances, a reasonable timescale will be agreed by ELAN.

In all cases, these should be viewed as maximum periods and investigations should be completed as soon as is reasonably practicable. In exceptional circumstances e.g. very complex cases or where the Investigating Officer or an important witness falls sick, the headteacher/member of the SLT can agree to extend the investigation following consultation with the individual. However a reasonable date for completion should be set.

On completing the investigation, the Investigating Officer will provide a summary of their findings and a recommendation to the headteacher/member of the SLT whether a formal disciplinary hearing is necessary and, if so, on what basis.

Allegations against the Chief Executive Officer (CEO), headteacher and members of the SLT

Where allegations of misconduct involve the Chief Executive Officer (CEO), the Chair of Trustees would lead the process.

Where allegations of misconduct involve the headteacher, the Chief Executive Officer (CEO), or other designated senior leader, replaces the headteacher or member of the SLT in initiating any action that may be taken. The power to suspend the headteacher will rest with the CEO. Any investigation of a headteacher will be carried out by a representative of ELAN.

Where allegations of misconduct involve a member of the SLT, the headteacher will initiate any necessary action and have responsibility for suspension if appropriate.

11 Disciplinary Hearings

Where the results of the investigation recommends that there are reasonable grounds to suggest misconduct or gross misconduct, a Disciplinary Hearing should be arranged as soon as possible but within four working weeks of completion of the investigation. Reasons for any delay in convening a hearing must be communicated by the member of the SLT to all interested parties.

The Investigating Officer's report and all relevant documentation including witness statements (anonymised if requested) should be sent to the employee and their representative with a letter specifying the date, time and place for the hearing giving a minimum of five working days' notice (notice periods cover working days either side of holidays). The letter must contain precise information about the allegation and its possible consequences. The letter should inform the employee of their right to be accompanied by a trade union representative or work colleague and the arrangements for the notification of any witnesses to be called by the employee. If an employee's companion cannot attend on a proposed date, the employee can suggest another date which should usually be within five working days.

12 Composition of the Panel

Members of the SLT can personally hear allegations of misconduct, providing they have not been involved in the incident or the investigation process. If this is impractical or inappropriate, or where the allegations are of gross misconduct, or other misconduct which could result in the dismissal of the employee i.e. they already have a final warning on file, a disciplinary panel will hear the case.

The disciplinary panel will usually comprise of a member of the SLT and a school governor.

For all meetings a note taker will attend to take minutes of proceedings. It is their role to minute the significant points of the hearing and the decision of the panel but not to produce a verbatim record.

Advisers, for example an HR representative or appropriate professional advisor, may be invited to attend disciplinary hearings as appropriate but HR attendance is mandatory for allegations of gross misconduct.

13 Conducting the Hearing

At the Hearing, all parties present will be given an opportunity to ask questions or challenge the reports/evidence submitted by all witnesses (see Appendix 2 for the Disciplinary Hearing Format).

The employee and their representative should be informed of the decision of the Disciplinary Hearing immediately (unless there is an adjournment to clarify any facts) and the Chairperson hearing the allegation will confirm this in writing within five working days.

The letter detailing the decision will be given to the employee and a copy placed on their personnel file, if a warning is issued. Following the outcome of the hearing, the decision letter will state:

- The reason for the decision.
- The course of action to be followed by the employee.
- The timescale in which improvement is required, if applicable.
- Where assistance is required, the assistance which will be made available to the employee (e.g. training and guidance).
- The date on which the warning will elapse.
- That further disciplinary action will be considered if there is further misconduct or insufficient improvement within the timescale of the warning.
- The right of appeal against the decision and how to exercise that right.
- If the warning is a final, it will also state that if the employee's conduct continues to be unsatisfactory or if there is further misconduct, it may lead to dismissal.

14 Appeals Procedure

Employees have the right of Appeal against all formal disciplinary action.

Appeals must be registered in writing with the HR within ten working days of the date of the letter confirming the disciplinary decision. Appeals received after this period will not be heard.

Appeals against decisions made by the disciplinary panel must be considered by an appeals panel, which will consist of the headteacher and a representative from ELAN who have had no prior involvement in the case. An HR representative or appropriate professional advisor should also be present.

In submitting an appeal, employees are asking the appeal panel to consider the fairness and reasonableness of any disciplinary measures taken at the original hearing

Employees/appellants must present any new evidence which was unavailable at the time of submission of the appeal documentation at least five working days prior to the appeal hearing so that management has an opportunity to respond.

Appeals against disciplinary action will usually be considered by the panel in relation to one or more of the following grounds:

- The **PROCEDURE**, – the grounds of appeal should detail how procedural irregularities prejudiced the disciplinary decision.

- The **FACTS**, – the grounds of appeal should detail how the facts do not support the decision or were misinterpreted or disregarded. They should also detail any new evidence to be considered.
- The **DECISION**, – the grounds of the appeal should state how the act(s) of misconduct did not justify the level of disciplinary action taken or the act was one of misconduct rather than gross misconduct.

Appeal hearings will be convened as soon as is reasonably practicable and the employee/appellant will be given 10 working days' notice of the time and place of the appeal hearing.

The appeal will concentrate on the area(s) of dispute only and will not be a rerun of the whole disciplinary hearing. Accordingly, it is important that the employee is explicit about the grounds for appeal and must provide clear and specific reasons in writing.

The appeal officer may adjourn the appeal hearing if he/she/they needs to carry out any further investigations in the light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before a decision is given.

The result of the appeal and the reasons for the decision will be conveyed to the appellant immediately after the Hearing and will be confirmed in writing to the appellant and his/her representative within 5 working days by the Chair of the appeal panel.

The appeal panel may do any of the following:

- Confirm the original decision
- Revoke the original decision
- Substitute a different penalty

There will be no further right of appeal.

15 Employee Representation

Where allegations are made against an employee, he/she should be informed from the outset of their rights to be represented at all meetings and related hearings by a recognised Trade Union representative or school employee.

16 Suspension

The suspension of an employee is a neutral act and should only be used to enable a matter to be investigated, or in the interests of protecting children and/or staff while a matter is investigated pending any further action that may be necessary. Suspensions are a infrequent, precautionary measure and should not be regarded as prejudging the matter. If at any stage during or at the end of the investigation, or at any stage of the disciplinary procedure, it is considered that this suspension should be lifted, the employee will be informed immediately.

In all cases the CEO and/or HR at ELAN need to be informed and approve the suspension. Where suspension is considered, this should be confirmed in writing giving broad details of the allegation.

An employee may be suspended on full pay when an act of gross misconduct is either suspected or alleged to have been committed or for "other good and urgent cause", which is normally taken as when the employee is suspected of, or has been arrested for, doing

something which would render him or her unsuitable to remain in school. The period of suspension should be as brief as possible and should be kept under review.

If necessary, a senior manager can send an employee home pending ratification by the headteacher/a member of the SLT the following day.

Suspension from duty is a 'working arrangement' whereby the employee must not enter any ELAN building or contact any school employee without the express permission of a member of the SLT or the Investigating Officer. Nor must a suspended employee contact pupils or their parents or anyone else with whom they would come into contact during the course of their duties. Failure to observe this requirement may render them liable to disciplinary action. Confidentiality should be maintained throughout.

Where an employee is suspended and needs to contact witnesses to provide evidence at a hearing, then this may be achieved via their union representative or HR.

17 Child Protection

If allegations are made against employees which involve child protection issues, the child protection procedure must be followed irrespective of how the allegation arises. Employees may be suspended on full pay pending the outcome of the child protection procedure. If the relevant child protection agencies decide not to pursue action against the employee, the matter will be referred back to the school for consideration under the appropriate procedure.

If the child protection procedure is involved, other disciplinary procedures will begin only if and when the matter has been referred back to the school. The fact that external agencies have not taken action should not be taken as an indication of the employee's innocence or guilt.

If allegations are made against any employees and agency and contractor workers that they may have behaved in such way that whilst not directly related to children, indicates they may not be suitable to work with children (i.e. there is a potentially transferrable risk in their behaviour), as well as being a potential breach of the Staff code of conduct, this could result in a safeguarding investigation under part 4 of Keeping Children Safe in Education 2023.

18 Record keeping

Managers and panels must keep written records of meetings and discussions relating to the disciplinary process. These must be written during or as soon after the event as possible to ensure the accuracy of the record. Written records must, where possible, be signed and dated by all parties or the accuracy of minutes by all parties confirmed electronically. Copies of all final meeting records must be given to employees and their representatives. Written confirmation of the outcome of any meetings will be sent to the employee and their representative for their information and a copy kept on the employee's personnel file in accordance with the Data Protection Act 2018 and the UK GDPR. Records should include:

- the nature of the alleged misconduct;
- what was decided and actions taken;
- the reason for the actions;
- whether an appeal was lodged;
- the outcome of the appeal; and

- any subsequent developments

Employees may also wish to keep records of events to support their case.

19 Special Situations

Grievances raised during the course of the disciplinary procedure

Sometimes an employee may raise a grievance during the course of a disciplinary case. Where this happens and depending on the circumstances, it may be appropriate, to suspend the disciplinary procedure for a short period until the grievance can be considered. The employee, will however, have to raise the grievance in accordance with the ELAN grievance procedure. It may be that the grievance has nothing to do with the disciplinary and can run concurrently or may be used as mitigating circumstances in some cases. Please consult with HR to confirm the best way to proceed on a case-by-case basis

Depending on the nature of the grievance, the school may need to consider bringing in another manager to continue to hear the disciplinary case.

Discipline of Employee Representatives

Any Disciplinary action being contemplated in respect of staff representatives of recognised trade unions within this procedure should not be instigated without notification in advance to the full-time official or nominee of the appropriate Trade Union via HR.

20 Links to other policies

- Grievance policy
- Staff Code of conduct

21 Review

This policy will be reviewed annually in consultation with the recognised trade unions.

Appendix 1 - Examples of Misconduct and Gross Misconduct

Gross Misconduct

The following are examples of gross misconduct but are not intended to be exhaustive:

- 1 Prolonged unauthorised absence from work/Absence without Leave (AWOL for at least 10 working days without contact).
- 2 While purporting to be absent sick, working or engaging in activities, which are likely to be inconsistent with the reason for absence and/or which are unlikely to be conducive to recovery.
- 3 Inappropriate conduct towards or contact with pupils.
- 4 Breaches of the Safeguarding Policy and procedures, including behaving in such a way as to present a transferrable risk to our pupils.
- 5 Serious acts of insubordination
- 6 Serious breaches of the school's Financial Regulations or Code of Conduct.
- 7 Theft or misappropriation of, or failure to account for, or falsely claiming entitlement to, the property, assets or funds of the school or its employees
- 8 Fighting or acts of violence at the work place, serious threatening or abusive behaviour toward; pupils, parents or fellow employees.
- 9 Criminal offences outside work (including fraudulent activities) which may affect the individual's employment suitability.
- 10 Unauthorised removal and use of school property.
- 11 Failure to report or record any serious matter which it is the employee's contractual duty (either expressed or implied) to report.
- 12 Falsification of documents likely to be of financial benefit to the employee or other persons e.g. time sheets, bonus/expense claims, qualifications, etc.
- 13 Obtaining a job by lies or deception in the course of selection procedures.
- 14 Making false claims under any of the school's policies and/or procedures.
- 15 Discrimination/harassment against a pupil, employee or parent, on the grounds of sex, trans-gender status, sexual orientation, religion or belief, marital status, civil partnership status, age, race, colour, nationality, national origins, ethnic origin or disability.

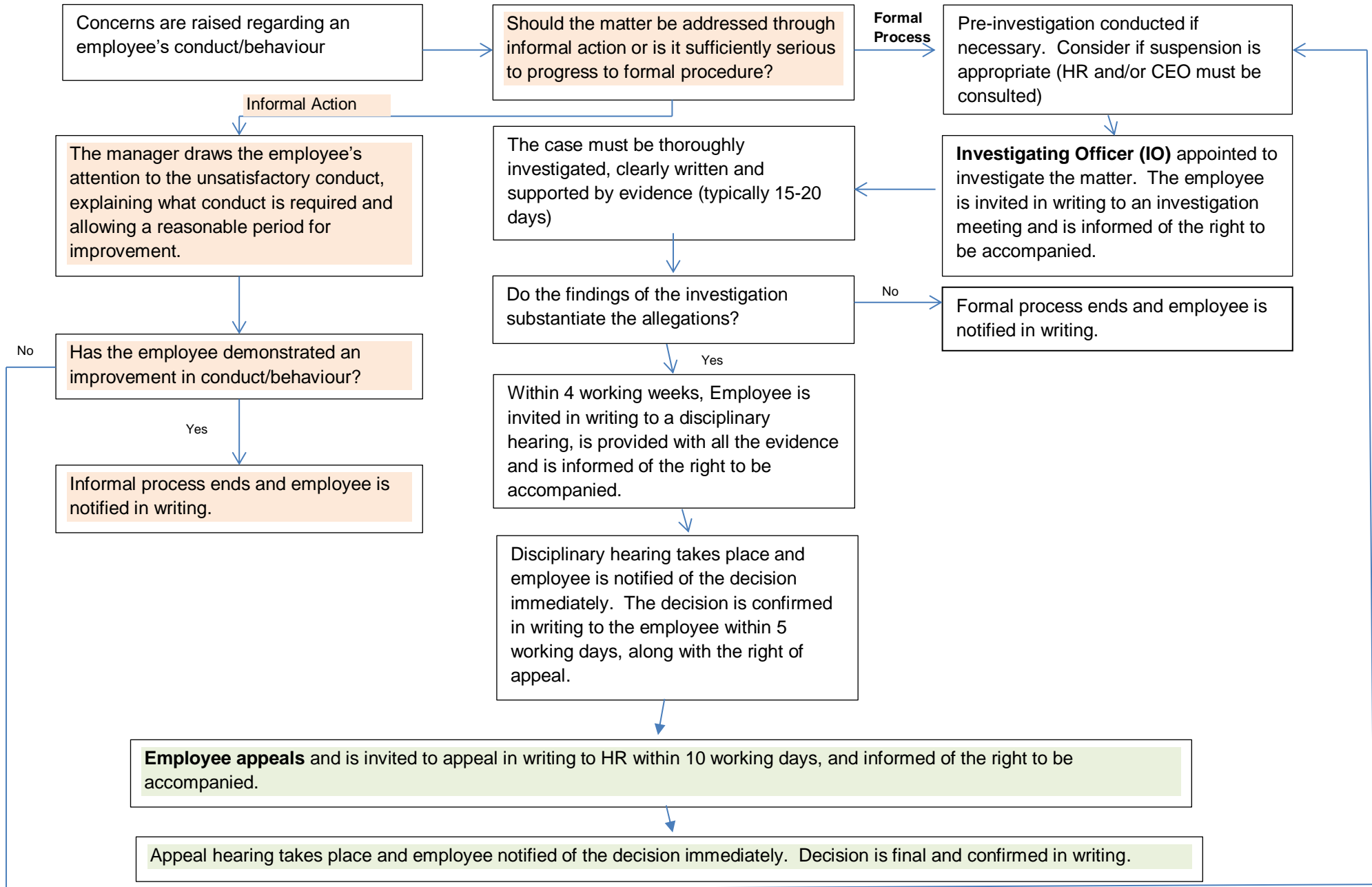
- 16 Bullying.
- 17 Being incapable of adequately performing duties as a result of the intake of alcohol or drugs
- 19 Serious breaches of the school's Health and Safety policies or practices
- 20 Serious contravention of the school's Policy on Internet Access
- 21 serious lack of care to their duties or other people ('gross negligence')
- 22 Acts or omissions that would expose the School or ELAN to serious criticism or cause serious reputational damage

Misconduct

The following are examples of misconduct but are not intended to be exhaustive:

- 1 Regular lateness for work
- 2 Regular failure to follow employment rules e.g. reporting absence
- 3 Refusal to carry out a reasonable instruction of a manager
- 4 Negligence at work leading to loss, damage or wastage of school or other property
- 5 Improper, disorderly or unacceptable conduct at, in or near the school.
- 6 Wilfully inadequate work performance (note - poor performance or lack of capability will normally be the subject of Capability procedure)
- 7 Private trading
- 8 Betting or gaming
- 9 Consistently poor standards of dress or hygiene

Appendix 2 – Disciplinary Process



Appendix 3 – Disciplinary Hearing Format

