



DISCIPLINARY PROCEDURE

Original document	Pay and Personnel Committee	12/06/2014	Version 1
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STATEMENT OF INTENT

This disciplinary procedure sets out ODST's policy on conduct and discipline and the procedure to be applied when an employee's conduct or behaviour falls below normal or acceptable standards. It is designed to ensure that the ODST has a framework that provides a clear and transparent structure for dealing with disciplinary issues that may arise as part of the employment relationship.

It is intended that, when it is necessary to use the disciplinary procedure, it is applied fairly, reasonably and as quickly but as carefully as possible, and that the employee is given every opportunity to improve.

The starting point for developing this policy was the Oxfordshire County Council model policy which had been drawn up following consultation with all the recognised Trade Unions and Associations. It has been amended to reflect the independent status of ODST as a multi academy trust, although the substantive content remains the same. It meets the requirements of relevant legislation and the ACAS Guidance. ODST intends that future changes to this policy will be subject to consultation with its schools / academies, their staff and any recognised Trade Unions and Associations.

GENERAL PRINCIPLES

Definitions.

- The term "relevant body" has been used throughout this policy. In ODST the relevant body is the Board of Trustees of ODST;
- Unless indicated otherwise, all references to "school" include both schools and academies;
- Unless indicated otherwise, all references to "teacher" include the Headteacher;
- Unless indicated otherwise, all references to 'staff' include both teaching and support staff.

Consistency of Treatment and Fairness.

The relevant body is committed to ensuring consistency of treatment and fairness and will abide by all relevant employment and equality legislation.

Delegation.

The relevant body has chosen to delegate some of its functions to Local Governing Bodies as set out in this policy, and in particular in the 'Responsibilities' section below.

Monitoring and Evaluation.

The Local Governing Body and Headteacher will monitor the operation and effectiveness of the school's disciplinary policy. Any feedback or concerns regarding the policy should be reported to the ODST Pay and Personnel Committee.

RESPONSIBILITIES

Responsibilities of the Governors.

- Day to day responsibility for employee discipline is delegated to the Local Governing Body and they should formally adopt this model policy, and publicise it to their employees;
- Where disciplinary matters relate to staff other than the Headteacher, the Headteacher may attend and offer advice in all proceedings and this advice must be considered;
- The Local Governing Body may decide to delegate any disciplinary decision to the Headteacher or to a group or governors or a group of governors working together with the Headteacher;
- The term 'Headteacher' has been used throughout this procedure, however depending on the size and structure of the school the Headteacher's role in the procedure may be delegated to other members of the senior leadership team, school business managers or line managers as appropriate;
- Where the disciplinary action relates to the Headteacher, the Local Governing Body will follow the guidance in this policy;
- The Local Governing Body will appoint a committee of three governors to deal with any disciplinary matter which has not been delegated to the Headteacher. This committee will, in appropriate cases, exercise the powers of the Staff Dismissal Committee (as required in the School Standards & Framework Act 1998);
- Similarly the Local Governing Body may decide to delegate part of this procedure, for example the authority to issue a first written warning to the Headteacher, but can decide that any matter that might require more serious disciplinary action should be referred to a committee of governors;
- As and when necessary, the Local Governing Body will appoint a staff dismissal appeal committee no smaller than the committee which made the original decision. It should consist of at least two governors, neither of whom should have been involved in the case in any way before the appeal hearing and a nomination from the relevant body. The Headteacher should not be a member of this panel. In certain situations, such as where there are insufficient "untainted" governors or if the appeal is from the Headteacher the appeals panel can consist of ODST nominations. There will be no further right of appeal to ODST;
- An ODST HR representative must be consulted for advice on the application of the formal stages of this procedure and must attend formal hearings to provide advice, especially when dismissal is being considered;
- In cases of dismissal, the governors must also give the relevant body written reasons for dismissal and fully consider the relevant body's HR advice throughout the process;
- No decision to dismiss should be delegated to one person acting alone;
- In all disciplinary matters, a record of any disciplinary action taken against an employee will remain active until it is 'spent' and will then retained within their personnel file;
- If a dismissal case goes to an Employment Tribunal, governors will be the joint respondents. They will need to attend in order to justify their decisions. Any costs arising will be met by the relevant body in the first instance. An appropriate amount will be re-charged to the school's delegated budget, depending on the circumstances of the specific case;
- Governors should ensure that any individual who is the subject of disciplinary investigations or action is given sufficient and appropriate support throughout the process and kept fully informed about progress.

Responsibilities of the Relevant Body.

- In the event of the Headteacher being subject to disciplinary action, the relevant body will be responsible for administering this procedure through a senior officer of the central ODST team;
- The school must consult the relevant body at all stages where dismissal may result. It is essential therefore to involve at an early stage, and throughout, any disciplinary process an ODST HR representative. They will make every effort to advise and assist the governors in the use of this procedure;
- If a governing body determines that an individual employee should no longer work at the school the relevant body will consider whether or not to try to redeploy the employee. If this is not possible or appropriate s/he will put the dismissal in writing to the employee. This action must be taken within fourteen days of receiving written notification from the governors.

Responsibilities of Line managers.

- Line managers are responsible for managing the performance of their staff, ensuring they make staff aware of the standards expected, their key priorities and to promptly manage underperformance or misconduct;
- Where line managers believe formal disciplinary action is required, they must consult with their Headteacher who will, following initial enquiry, decide whether the circumstances warrant the application of this formal procedure.

DATE OF REVIEW

The policy will be reviewed as required by the Board of Trustees of ODST to take account of any legislative changes and / or national policy development as well as feedback from ODST staff and schools and in any event, by 31 December 2022 at the latest.

INTRODUCTION

1. Schools are required to have clear procedures for the regulation of the conduct and discipline of school staff. This procedure provides a fair and objective approach to handling cases of misconduct and has been developed in accordance with relevant employment law and the ACAS Code of Practice on Disciplinary and Grievance Procedures.
2. Advice on the application of this procedure is available from the ODST HR team.
3. This procedure applies to all employees working in the school. It should be read in conjunction with other relevant documents such as the School Teachers' Pay and Conditions Document (STPCD), Conditions of Service for School Teachers in England and Wales (Burgundy Book) and the National Agreement on Pay and Conditions of Service for support staff (the Green Book).

SCOPE AND PURPOSE

4. ODST expects high standards of performance and conduct from all employees.
5. Effective performance management and support should reduce the need for formal disciplinary action. The school will manage issues of misconduct informally wherever possible, as part of the normal day to day management of staff. Any shortcomings will be brought to the employee's attention as soon as possible in an effort to achieve an improvement in an informal way.
6. The purpose of both formal and informal disciplinary procedures is to improve the performance and conduct of an employee with a view to helping them to fulfil their duties and responsibilities and maintain the standards expected by the school.
7. This formal procedure will normally be followed only where:
 - After informal measures, misconduct persists and satisfactory improvement is not demonstrated;
 - A deliberate disregard or breach of the school's policies and standards has taken place or
 - Misconduct is sufficiently serious to warrant immediate formal action.

Definition and examples of misconduct.

8. Misconduct is defined as unacceptable or improper behaviour that falls short of the school's expected standards.
9. The examples of misconduct listed here would normally, where it is a first offence, warrant formal disciplinary warnings or other action, rather than dismissal. However, in some cases, the actions may be regarded as of such an extreme nature that they would amount to gross misconduct. This list is not exhaustive:
 - Poor time keeping;
 - Failure to follow a reasonable management instruction;
 - Failure to comply with the school's policies and standards of behavior;
 - Failure to follow the school's safeguarding procedures;
 - Unauthorised absence;
 - Inappropriate behaviour toward pupils, parents, colleagues or members of the public;
 - Misuse of social media;
 - Actions and behaviours that could affect the reputation of the school and/or the employee in their role.

Definition and examples of gross misconduct.

10. Gross misconduct is considered to be behaviour or conduct that falls so far below the standards required that it may be considered as a fundamental breach of contract and justifies summary dismissal (dismissal without notice).
11. While not an exhaustive list, examples of gross misconduct include:
 - Theft, fraud or serious falsification of records such as exam results, pay claims;
 - Violent, offensive, abusive, neglectful or indecent behaviour;
 - Bullying, harassment or victimization;
 - Gross negligence in performance of duties;
 - Acts considered in serious contravention to the safeguarding of children such as sexual abuse, accessing child pornography, violence;
 - Actions or behaviours that fundamentally breach the relationship of trust and confidence between the school and the employee.
12. Where acts of gross misconduct are believed to have taken place, no decision will be taken to dismiss until the formal procedures set out in this document have been followed. This includes a full investigation of the facts and holding a disciplinary hearing, giving the employee the opportunity to respond. A period of suspension may be considered in these circumstances - see sections 93-106.

Child Protection allegations.

13. Where allegations involve child protection issues, e.g. abuse, the Headteacher must consult with the Local Authority Designated Officer (LADO) within 24 hours of receiving the allegation- see also paragraphs 49-50.

Capability procedures.

14. Separate procedures will be followed where an employee is considered incapable of doing their job to the required standard due to a lack of professional capability (see Professional Capability Procedure) or as a result of ill health (see Managing Sickness Absence).
15. Where it is not clear whether the issues are of misconduct or incapability or both, the Headteacher should seek advice from an ODST HR Representative.

GENERAL INFORMATION

Key principles in handling disciplinary matters.

16. Wherever possible, steps will be taken to try and resolve matters of misconduct informally, giving the employee an opportunity to meet the required standards within a reasonable timescale, unless the matter is sufficiently serious to warrant immediate formal action.
17. Where formal action is deemed appropriate, the school's leadership, managers and employees should not unreasonably delay meetings, decisions or confirmation of those decisions in order for matters to be dealt with promptly.
18. Disciplinary issues must be dealt with fairly and consistently and all parties are expected to treat the issues confidentially.

19. Investigations should be carried out to establish the facts of each case before disciplinary action is considered.
20. Employees must be informed of the allegation(s) and given the opportunity to explain their case.
21. No disciplinary warnings or decisions to dismiss can be taken without the disciplinary procedure being followed including a formal hearing.
22. Where practical, different people should carry out the investigation and disciplinary hearing.
23. Employees will be allowed to be accompanied to any formal disciplinary hearing by a trade union representative or work colleague.

Record keeping.

24. A written record of any disciplinary matters will be kept on the employee's file. Records will be treated as confidential and kept no longer than necessary in accordance with the Data Protection Act 1998.
25. Records kept on the employee's personal file will include:
 - the allegation(s) against the employee;
 - the employee's response;
 - findings made, actions taken and the outcome;
 - the reason for actions taken;
 - whether an appeal was lodged;
 - the outcome of the appeal;
 - subsequent developments;
 - notes of any formal meetings.
26. Copies of meeting records should be given to the employee including copies of any formal minutes that may have been taken. In certain circumstances (for example to protect a witness) the school may withhold some information.
27. A record of any disciplinary penalty issued to an employee will remain active on their record until it is spent and will then be retained on their personnel file.

Disciplinary action against trade union representatives.

28. Normal standards of conduct apply to employees who are trade union representatives and these disciplinary procedures should be followed in cases of misconduct. However, before proceeding to disciplinary action, the Headteacher should discuss the matter with a full-time trade union official, after obtaining consent from the employee.

Support for employees affected by disciplinary action.

29. It is recognised that being subject to investigation and disciplinary action can be stressful for employees and for all parties involved. The school will make every effort to deal with and conclude matters promptly and encourages employees to contact their trade union representative.
30. Where schools have bought into an Employee Assistance Programme details of this will also be provided.

Dealing with misconduct informally.

31. Where the school is concerned about an employee's conduct, their line manager or Headteacher will deal with this promptly by speaking to the employee, being clear about the shortfalls and the standards expected.
32. In cases where misconduct persists or is of a more serious nature, the employee will be invited to meet with their manager or Headteacher informally to discuss the matter.
33. At this meeting the Headteacher/manager will:
 - Make clear to the employee the issues of concern and how the conduct falls short of what is expected;
 - Explore the reasons for the shortfall, giving the employee the opportunity to give an explanation for their conduct or behaviour;
 - Agree an improvement plan with time scales and monitoring arrangements, identifying any support or training that may be required;
 - Confirm that any repeat of the issue/s or failure to improve is likely to lead to formal disciplinary action being taken.
34. This discussion and the agreed actions will be confirmed in writing within three working days and will remain on the employee's file.

FORMAL DISCIPLINARY PROCEDURE

Identifying the need for formal procedures.

35. The Headteacher or a Senior Officer of ODST in liaison with the school's Chair of Governors (in the case of alleged misconduct of the Headteacher) will decide whether the circumstances warrant moving to the formal stages of the disciplinary procedure.
36. Applying the formal procedure will largely depend on:
 - The nature and seriousness of the alleged misconduct;
 - Any previous action taken to address the issues, including any warnings regarding the employee's conduct.

Establishing the facts.

37. The school will take all reasonable steps to establish the facts of the alleged misconduct before deciding whether to hold a formal disciplinary hearing.
38. Initial enquiries will be carried out promptly to determine:
 - If it is a potential disciplinary matter;
 - How serious the issues may be;
 - If further investigation may be necessary and the scope of that investigation.

Conducting investigations.

39. It will be decided at the outset who should undertake any necessary investigations, ensuring that different people carry out the investigation and make the decision at any subsequent disciplinary hearing.

40. Investigations may be carried out by the Headteacher or another member of the senior leadership team. A senior officer of ODST will normally carry out the investigation where the Headteacher is the subject of this procedure.
41. Investigators should follow the guidance provided by [ACAS Conducting Workplace Investigations](#) to plan and conduct the investigation and interview witnesses. Investigators can also seek advice from the ODST HR Representative.
42. Any investigations must be carried out promptly and will be proportionate to the seriousness and complexity of the matters being investigated. This will include speaking to the employee, explaining the allegation(s) and getting their response.
43. Investigations may also involve:
- Reviewing documentation and records, documents and records may, where appropriate, be obtained from external sources, e.g. auditors or police;
 - Interviewing relevant witnesses and taking statements from them;
 - Interviewing the employee again to explore issues further.
44. Depending on the scale and complexity of the investigation the "Investigating Officer" may be required to produce an investigation report and present their findings at a Disciplinary Hearing.
45. Where allegations of misconduct are based on information disclosed on social media the school will take reasonable steps to verify the information, its source and authenticity.
46. While there is no legal right for an employee to be accompanied at an investigatory meeting, the school may consider allowing trade union representatives or work colleagues to accompany employees where this does not unduly delay the investigation.
47. In some circumstances it may be deemed appropriate to suspend the employee while investigations are conducted - see paragraph 93.

Deciding if there is disciplinary case to answer.

48. Based on the facts gathered from the investigation the investigator will recommend either that:
- No further action is required;
 - The matter should be dealt with informally through normal managerial guidance;
 - The matter should be considered at a formal disciplinary hearing.

Investigating child protection allegations.

49. Where allegations involve child protection issues, e.g. abuse, the Headteacher must consult with the Local Authority Designated Officer within 24 hours of receiving the allegation. Any further action under the school's Disciplinary Procedure will be suspended until agreement has been given by the Designated Officer for the Local Authority to proceed and in consultation with an ODST HR representative.
50. For guidance on handling allegations of abuse made against teachers or other staff see DfE Statutory Guidance "Keeping Children Safe in Education" - Part Four.

Allegations of criminal offences.

51. If the school becomes aware that an employee is subject to criminal investigation, this may not in itself be a reason for disciplinary action. The school will establish the facts and having taken HR advice, consider whether the matter justifies applying the disciplinary procedure.
52. It may be possible for a disciplinary investigation to run in parallel to a criminal investigation, but the Headteacher should seek advice from the Police and an ODST HR representative. An investigation by the school may need to be suspended where the Police advise that it may prejudice a criminal investigation. The employee will be kept informed.
53. It is not always necessary to await the outcome of any court hearing before deciding on disciplinary action. The criminal justice system works on the basis of guilt being 'beyond reasonable doubt' whereas under employment law an employer can make a decision based on the 'balance of probability'. Schools should seek advice from an ODST HR representative.

Right to be accompanied.

54. Employees have the right to be accompanied at all formal disciplinary hearings. This can be a trade union representative/official or a work colleague. To exercise this right, employees must make their request in advance of the meeting, letting the school know the name of their representative and whether they are a trade union representative or work colleague.
55. At disciplinary hearings the representative can present and/or sum up the employee's case, say things to support the employee's case and confer with them during the hearing. The representative cannot answer questions on the employee's behalf.
56. Where an employee's representative cannot attend on the proposed date of the meeting, the employee can suggest an alternative time and date so long as it is reasonable, and it is not more than five working days after the original date.

DISCIPLINARY HEARING

Convening a disciplinary hearing.

57. Where, as a result of the investigation it is decided that there is a disciplinary case to answer, the employee will be notified in writing and invited to attend a disciplinary hearing. The employee will be given at least five working days' notice of the hearing.
58. Details of the alleged misconduct will be provided in writing to the employee along with the possible outcomes of the disciplinary hearing and the names of those who will be present including the name of the person or panel hearing the case.
59. Copies of any written evidence, which may include witness' statements, will normally be provided at the same time, along with the names of any witnesses that will be called by the Headteacher or manager and details of the time and venue for the hearing.
60. The employee will be notified of their right to request be accompanied and will be provided with a copy of the school's Disciplinary Procedure.
61. Whilst it is expected that witness statements will be provided to the disciplinary panel ahead of any meeting in line with paragraph 59, the panel may at its discretion permit the employee to invite

witnesses to attend on their behalf. In such circumstances, the employee must notify the hearing panel of the names of any witnesses that will be attending as soon as possible and no later than three working days prior to the hearing.

62. The employee may submit a written response and any written evidence they would like to present at the hearing at least three working days in advance of the hearing.

Disciplinary hearing panel and advisers.

63. Where practical, different people should carry out the investigation and disciplinary hearing.

64. A decision will be taken as to whether the case will be heard by the Headteacher or the Disciplinary Committee. This will take account of the Headteacher's previous involvement in the case and the delegated decision-making responsibilities agreed by the relevant body based on the seriousness of the case and the potential outcomes.

65. A Disciplinary Committee should normally consist of three members, although in exceptional circumstances, the hearing can proceed with two on the panel.

66. Selection of governors for the Disciplinary Committee must ensure there is no potential conflict of interest. It is not appropriate for staff governors to be members of the school's disciplinary panel/committee.

67. An ODST HR Representative must attend and advise the panel on procedural matters where the hearing may result in dismissal.

68. The school will arrange for the Clerk to the relevant body or another appropriate note taker to attend the disciplinary hearing to take notes.

69. Audio or video recording of disciplinary hearings is not permitted.

Purpose and format of disciplinary hearings.

70. The purpose of a hearing is for the Headteacher or panel hearing the case to consider the facts and circumstances of the matters to enable them to decide what action to take, if any. This will include:

- hearing from the manager and/or investigating officer the nature of the allegations and the evidence that has been gathered including, where applicable, calling any relevant witnesses. In some situations, a written investigation report may be provided instead which captures the nature of the allegations;
- allowing the employee to respond to the allegations;
- giving the employee and their representative reasonable opportunity to ask questions, present evidence and, where permitted in advance, to call relevant witnesses and to raise points about any information provided by the witnesses.

71. Appendix 1 provides more information about how a hearing should be conducted.

72. The decision of the Headteacher or panel will be given to the employee and their representative at the end of the hearing and/or will be confirmed in writing to the employee within three working days. The employee will be notified of their right to appeal.

Deciding what action and disciplinary penalty to take.

73. The hearing panel may decide, on the basis of the available information, either:

- That no action is necessary;
- To issue a disciplinary warning;
- To demote the employee;
- To dismiss the employee.

74. When deciding what disciplinary penalty is appropriate and what form it should take, consideration will be given to circumstances and facts of the case including:

- The employee's work and disciplinary record including any current warnings, their position and length of service;
- Any special or mitigating circumstances which might make it appropriate to adjust the severity of the penalty;
- Whether the proposed penalty is reasonable and proportionate in view of all the circumstances;
- Whether any training, additional support or adjustments to the work are necessary.

Disciplinary Sanctions.

75. Disciplinary sanctions will normally be issued in the sequence set out below. However, serious matters of misconduct may result in an immediate final written warning or the decision to dismiss, where the hearing panel considers it to be a reasonable response based on the circumstances and facts of the case.

First written warning.

76. A first warning is normally issued as a first stage for misconduct. This will be in writing and set out the nature of the misconduct and the change in behaviour required and the right of appeal. The warning will also inform the employee that further disciplinary action may be considered if there is no sustained and satisfactory improvement or change.

77. A record of the warning will remain active on the employee's record for a specified period, usually six - twelve months, at which time it will be spent and will then be retained on their personnel file.

Final written warning.

78. If the offence is sufficiently serious, or if there is further misconduct or a failure to improve during the currency of a prior warning, a final written warning may be given to the employee. This will give details of the complaint, the improvement required and the timescale. It will also warn that failure to improve may lead to further disciplinary action resulting in dismissal (or some other action short of dismissal) and will refer to the right of appeal. A copy of this written warning will remain active on the employee's record for a specified period, usually of twelve months at which time it will be spent with a record retained on their personnel file, subject to achieving and sustaining satisfactory conduct or performance.

Dismissal with notice.

79. The decision to dismiss an employee may result if after examining the case at a hearing the panel find:

- Despite previous formal warning/s, further misconduct has occurred or there has been a failure to improve;
- The misconduct is of such a serious nature that the panel believes dismissal is a reasonable response.

80. As an alternative to dismissal, depending on the circumstances, it may be decided to demote the employee.

81. The employee will be provided in writing the reasons for dismissal, the date on which the employment will terminate, and the right of appeal.

Summary Dismissal - Gross misconduct.

82. If an employee has been found to have committed an offence that would be regarded as gross misconduct such as listed in paragraph 11, the normal consequence will be dismissal without notice.

83. The employee will be provided in writing the reasons for dismissal, the date on which the employment will terminate, and the right of appeal.

Appeals.

84. Employees have the right to appeal against disciplinary action to an Appeal Committee and must do so in writing within 10 working days of receiving the written outcome of the disciplinary hearing. The person to whom they should appeal will be documented in the outcome letter.

85. Employees must make clear the grounds of their appeal providing full details. Examples of reasons to appeal may be the level of sanction issued was unreasonable; a serious flaw or fault in the findings or procedures followed.

86. The purpose of an appeal is not necessarily to rehear the full case but to examine the grounds of the appeal, the procedures followed and the reasonableness of the outcome.

87. Appeals should be arranged promptly. The employee will be invited to attend the appeal meeting in writing and will be given five working days' notice. The employee has the right to be accompanied by a work colleague or trade union official.

88. At the appeal the employee will be given the opportunity to state their case and provide any supporting evidence. The Headteacher or the chair of the disciplinary panel will present the response.

89. Both parties will be given the opportunity to ask questions and to invite any relevant witnesses.

90. The decision of the appeal panel will be put in writing to the employee within three working days of the appeal hearing. The decision of the appeal panel is final.

91. See Annex 2 for full details of conducting an appeal hearing.

Appeal Committee.

92. The Appeal Committee must be made up of Governors with no previous involvement with the case. In situations of appeal against dismissal the panel will also include a nomination from the relevant body. In certain situations- e.g. where there are insufficient 'untainted' governors or the appeal is from a Headteacher, the panel can consist solely of ODST nominations.

Suspension from work.

93. Where all other options have been considered, there may be instances where suspension with pay is necessary while investigations are carried out. For example, where relationships have severely broken down; in case of potential gross misconduct or where there are reasonable grounds to believe there is a risk to the individual, other staff, pupils or the school's property.

94. In exceptional circumstances, suspension may be considered where the school has reasonable grounds to be concerned that evidence may be tampered with, destroyed or witnesses pressurised.
95. Suspension does not imply any assumption of guilt and is a neutral act. Where the decision is made to suspend an employee, the period of suspension will be as brief as possible and kept under regular review.
96. The Headteacher or relevant body may suspend an employee, with advice from an ODST HR representative.
97. In some cases it may be appropriate to agree with the employee for them remain at home for a very short period, such as prior to an investigatory interview being held.
98. Wherever possible, the employee will be notified of the decision to suspend them by the Headteacher or a governor in person and the reasons will be explained. This will be confirmed in writing.

During a period of suspension.

99. Every effort will be made to keep periods of suspension as short as possible and the decision to suspend will be kept under regular review.
100. The school will nominate a contact person for the employee while they are suspended. This person must have no connection with the matters being investigated. This person will keep in regular contact with the employee e.g. weekly and will keep them informed of progress of the investigation in general terms.
101. While suspended the employee may be instructed to keep matters confidential and not to contact colleagues, to avoid any potential misunderstandings or influence on investigations.
102. Where schools have bought into an Employee Assistance Programme, contact details will be provided to the employee and they will be encouraged to access this support.
103. Employees will be suspended on full pay unless they become ill and are certified by a GP as unfit to work. In these circumstances normal sick pay entitlement will apply.

Ending a period of suspension and returning to work.

104. A decision to end a period of suspension should be taken by a Headteacher, or in the case of suspension of the Headteacher by a senior officer of ODST. In all cases an ODST HR representative should be included in the decision-making process.
105. Before a suspended employee returns to work, careful planning and consideration will be given to supporting their return.

Suspension of Headteachers

106. Where a Headteacher is suspended, decisions relating to their suspension will be made by a senior officer of ODST on behalf of the Relevant Body. The Chair of the Local Governing Body will be informed in confidence in advance wherever possible and kept updated on a regular basis.

Avoiding delays.

107. Prolonged, unresolved disciplinary matters can be stressful for employees and other parties and can cause a great deal of disruption to the school and pupils.
108. It is in everyone's interests for matters to be resolved as quickly as possible.
109. The Headteacher and school managers will make every effort to deal with matters promptly and without unreasonable delay.
110. If the employee's representative cannot attend on a proposed date, the employee must provide alternative times and dates of their availability, so long as these are reasonable and not more than five working days after the original date. Alternatively, employees can nominate another representative.
111. Employees and their representatives must take all reasonable steps to avoid delays, make every effort to attend the meetings required under this procedure and to provide any information requested, promptly and in advance of any meetings.
112. If an employee is unable to attend a meeting because of circumstances beyond their control, they should inform the school as soon as possible.
113. Employees will be expected to participate and attend all meetings, unless a GP or Occupational Health Physician advises that they are not fit to do so. In these circumstances other arrangements may be agreed with the employee to ensure matters can still proceed such as for them to provide a written statement and/or for a representative to act on their behalf. The employee's absence will be managed in accordance with the ODST Managing Sickness Absence Procedure.
114. A decision to proceed in the employee's absence can be made if:
 - the meeting has already been rearranged once and the employee fails to attend for a second time;
 - the employee fails to attend without explanation, or there is evidence that the employee has not made sufficient attempts to attend;
 - the employee is on long-term sick leave and medical opinion is that they will be unable to attend meetings in the near future. In these circumstances alternative arrangements will be discussed with the employee e.g. the employee can supply written information instead or ask a representative to attend on their behalf.

Referrals to the Disclosure and Barring Service.

115. Schools are required to refer to the DBS anyone who has harmed or poses a risk of harm to a child and who has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left. The DBS will consider whether to bar the person. See [DBS Referral Guide for Employers](#) to understand when a referral may be appropriate and for a copy of the referral form.

Regulation of teacher misconduct.

116. In cases of serious teacher misconduct the school will make a referral to the Teacher Regulation Agency (TRA) which is an executive agency of the Department for Education.
117. The employee will be notified that such a referral will be made.
118. The TRA is responsible for regulating the teaching profession in England and will investigate cases of serious teacher misconduct and decide whether to refer a case to a professional conduct panel. The panel then investigates whether a prohibition order should be issued.

Grievances raised during the disciplinary process.

119. Where an employee who is subject to formal disciplinary proceedings, wishes to raise a grievance about any related matters, this will not lead to the disciplinary process being postponed as they will have the opportunity to raise their concerns at the formal hearing.
120. If an employee wishes to raise a grievance or whistleblowing matter that is unrelated to the disciplinary proceedings, it will be dealt with separately and concurrently in accordance with the school's grievance or whistleblowing procedure.

Accessibility.

121. If any aspect of this procedure causes difficulty on account of a disability or if English is not the employee's first language, or if you need particular assistance or adjustments to attend meetings, contact the school at the earliest opportunity.

Further Information.

Other useful documents include:

- Education Act 2002
- School Staffing (England) Regulations 2009
- ODST Safeguarding and Child Protection Policy
- ODST Capability Policy
- ODST Managing Absence Procedures
- DfE Statutory Guidance "Keeping Children Safe in Education"
- Department of Education - Guidance on managing staff employment in schools

Appendix 1

Example format of a Disciplinary Hearing

1. The Chair introduces those present.
2. The Chair invites the person presenting the case against the employee to identify the areas of alleged default and to bring forward any witnesses or witness statements. In some situations this may be presented through the use of witness statements and an investigation report.
3. The Chair invites the employee and their representative to ask questions.
4. The Chair and any other members of the hearing panel, ask questions of the person presenting the case.
5. The Chair invites the employee and/or representative to respond in full to the case presented against them and to bring forward any witnesses or witness statements.
6. The Chair invites the person presenting the case against the employee to ask any questions.
7. The Chair invites the members of the panel, if appropriate, to ask questions of either party and asks any questions themselves. Either party is invited to address to the chair any comment arising from the question or the reply.
8. The Chair invites the person presenting the case to summarise it. No new evidence can be presented at this stage.
9. The Chair invites the employee or their representative to summarize their case. No new evidence can be presented at this stage.
10. The Chair asks both parties to withdraw while they or the sub-committee gives consideration to the case and come to a conclusion. If the sub-committee needs to clarify any point with one or both of the parties, both parties should be recalled.
11. The Chair will call back both parties either to announce the decision or to advise that a decision will be communicated in writing within three working days.

The process above captures the general format of a disciplinary hearing. Whilst the specific details may vary from case to case- e.g. a hearing may be chaired by a Headteacher rather than a panel- the general principle of evidence being presented and the employee having an opportunity to respond will be applied.

Appendix 2

Example format of an Appeal Hearing

1. The Chair invites the employee to present their case for appeal.
2. The Chair invites the Headteacher/school respondent to ask questions.
3. The Chair invites members of the appeal panel to ask questions of the employee.
4. The Chair invites the Headteacher/school respondent to respond to the case presented.
5. The Chair invites the employee to ask questions.
6. The Chair invites members of the appeal panel to ask questions of the employer.
7. The Chair invites the employee to summarise the case.
8. The Chair invites the Headteacher/school respondent to summarise the case.
9. Both parties withdraw leaving the panel to reach a decision.
10. All parties reconvene for decision to be communicated, or if necessary, informed that the decision will be communicated in writing within three working days.