

# RIVERSIDE SCHOOL



## **Disciplinary Policy and Procedure for Staff**

APPROVED BY GOVERNORS

RESPONSIBLE PERSON – HEADTEACHER

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## **1. Introduction and Purpose of Procedure**

The purpose of this procedure is to provide a framework to manage allegations of misconduct, where the employee has failed, through an act or omission, or a series of acts or omissions, to meet the standards of behaviour required by the school.

It is the Governing Boards' principal aim to ensure that where concerns about minor matters of misconduct arise, they are dealt with in a manner that focus is placed first and foremost on support and improvement, before the application of any formal sanctions outlined within this procedure.

This procedure is applicable to all members of staff employed by Riverside School. Employees on temporary or fixed-term contracts will be subject to this procedure with adjustments made where appropriate, to reflect the likely duration of the contract.

The Governing Board is mindful of its obligations under the Equality Act 2010, and its commitment to the school's Equality, Diversity and Inclusion Policy. This procedure will be applied fairly and consistently to all employees.

Any misconduct relating to unlawful discrimination and harassment will be dealt with according to the school's Equality, Diversity and inclusion Policy as well as the Anti-Bullying Policy in the first instance.

Maintained schools are required to set out our disciplinary procedures under [The School Staffing \(England\) Regulations 2009](#), with particular reference to regulations 7 and 20.

This disciplinary procedure is based on the [Disciplinary and Grievance Code of Practice](#) from ACAS.

## **2. Policy Statement**

The Governing Board are committed to ensuring that high standards of behaviour are aspired to within the school, and recognises that the majority of staff members meet or exceed the standards required of them. In pursuit of this commitment, the Governing Board expects managers to lead by example, demonstrating a high-level of competence, integrity and sound judgement, promoting effective working practices and supporting and encouraging school staff when difficulties arise. In return, the Governing Board expects all employees to strive for high personal standards of conduct and to participate in a culture of continuous improvement by identifying and acknowledging areas for development, or where training may be required, and seeking guidance and support from their performance manager when necessary and at an early stage.

The Governing Board acknowledges that minor issues relating to standards of conduct can, and should, be dealt with through open, constructive dialogue between manager and employee. In addressing circumstances where a member of staff's conduct fails to reach an acceptable level, or where there is a sudden and serious deterioration in the

standard of conduct, the Governing Board will seek to ensure through the application of this procedure that a focus is placed first and foremost on support and improvement. In so doing, the Governing Board also acknowledges its duty to give high priority to the education of young people, and will therefore take into account the likely impact on pupils when considering what progress must be made and in what timeframe.

### **3. Roles and Responsibilities**

The employee's manager is responsible for ensuring that minor issues relating to conduct are dealt with promptly and without recourse to this procedure.

Formal meetings held as part of this procedure, which could result in the issuing of a formal warning, will be conducted by either the headteacher or, where the headteacher has chosen to delegate this responsibility, by another appropriate senior manager. The employee's manager, if different, will continue to be central to any necessary ongoing monitoring and support.

Formal meetings which may result in a decision to dismiss will be heard by the Governing Board, as delegated to one or more of its members.

In cases where the headteacher's conduct is under review, the role of the manager at stages one and two will be delegated to one or more Governors, as determined by the Governing Board. The Local Authority will be informed (through the Chair of Governors or other appropriate officer) of any proposed investigation into the behaviour of the headteacher, and of any proposed meetings to discuss this with the headteacher.

### **4. Addressing Initial Concerns Informally**

The Governing Board recognises that, in many cases involving minor or early-stage concerns regarding conduct, the matter is best addressed and resolved discreetly through discussion between the manager and the employee concerned. Such concerns might include, for example, instances of poor timekeeping. These initial discussions, aimed at understanding any underlying causes for the concerns about behaviour, and what corrective actions might resolve the issue, will take place within the context of performance management, and are therefore outside of the scope of this procedure. Managers have both a right and a responsibility to bring such concerns to an employee's attention to allow them the opportunity to respond to and rectify the situation with the appropriate provision of guidance, support and any relevant training.

### **5. Formal Stages**

#### **Stage One**

Where the support provided has failed to bring about a sufficient improvement in conduct, or where the concerns or allegations are considered too serious to be dealt with informally, the formal procedure will be instigated, in the majority of cases commencing

at Stage One. If allegations constitute as Gross Misconduct, and may lead to dismissal, the case may be referred to Stage Three of the process. When an appropriate level of investigation has ascertained that there is a case to answer (see 'Disciplinary Investigations', section 7), the headteacher or other senior manager, as nominated, will arrange a formal meeting, giving at least 5 working days' notice in writing to the employee (see 'Scheduling Formal Meetings' section 7). The employee has the statutory right to be accompanied at this meeting, and any subsequent formal meetings, by a work colleague or trade union representative, and should be provided with a copy of the procedure in order to understand the context of the meeting. Employees must make the request to be accompanied in advance of the meeting, to allow the school to prepare and to ensure the employer knows who the companion will be. The companion can address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

At a formal meeting held under Stage One of the procedure, the headteacher or manager will be able to consider a range of possible outcomes short of dismissal. Dismissal is a last resort and is only likely to be an appropriate consideration at this early stage in cases where the allegation is likely to constitute gross misconduct (see 'Gross Misconduct', section 7). In such cases, the headteacher should seek HR advice before referring the matter to the Governing Board for consideration at a hearing panel under Stage Three of this procedure. Suspension of the employee must also be considered in such circumstances (see 'Suspension', section 7).

At the formal meeting under Stage one, the headteacher/ manager will:

- Identify the alleged misconduct;
- Allow the employee and their companion the opportunity to state their case and respond to the allegations raised and any information provided by witnesses;
- Give clear guidance on the improved standard of conduct required to enable the member of staff to avoid being subject to further stages of the procedure;
- In some cases, outline the timetable for improved conduct and how progress will be monitored;
- Explain, where relevant to the circumstances, what support will be available to help the member of staff improve their conduct; and
- Explain the consequences of a failure to improve.

The meeting will be adjourned if new facts come to light which the headteacher/ manager decide to refer for further investigation.

After the meeting, the headteacher/ manager will review the evidence and discussion which took place and decide, on balance of probability, whether the allegations are founded and what appropriate course of action to take from the following options:

- **No formal action** – this may be applicable where allegations are determined to

be unfounded or unsubstantiated or where informal management action is deemed to be a more appropriate response to the concerns about conduct.

- **First written warning** – this will be issued where the allegations of misconduct are found to be justified and informal management action alone is deemed to be an insufficient response.
- **Final written warning** – this will be appropriate in cases of very serious concern about conduct where the employee's actions have had, or are liable to have by their continuation, a harmful impact on the school, such as on the education of pupils or the safety or welfare of others.

The employee will be notified of the decision as soon as possible following the meeting and, in any event, in writing within 5 working days. They will be informed, either at the same time or as soon as possible thereafter, of any arrangements for assessment and monitoring. The letter to the employee will also confirm the period during which any written warning issued will remain live (see also 'Warnings', section 7) and the employee's right to appeal the decision in writing within 5 working days of receipt. The appeal may be heard by the headteacher, if they are not involved in the initial decision, otherwise it will be directed to the Clerk to the Governing Board, who will convene an Appeal Panel for the purpose (see Appeals, section 6).

Stage Two of the procedure will not be investigated unless and until a formal warning has been issued under Stage One, and therefore more than one formal meeting may be held under Stage One if appropriate to the circumstances.

### **Assessment and Monitoring Period.**

In some circumstances an assessment and monitoring period will follow a formal meeting held at any stage of the procedure after which a decision was made either to take informal management action or to issue a written warning. The length of this stage will depend on the circumstances of the individual case but, in straightforward cases, it will last for between four and six weeks. Monitoring, evaluation, guidance and support will continue during this stage.

At, or toward the end of the assessment period, the manager tasked with monitoring the employee during this period will be expected to reach a judgement on the level of progress made:

- **Conduct reaches required standard** – Where conduct has reached the required standard by the end of the assessment period, a meeting will be convened at which the employee is informed that the formal procedure is now ending and confirming any ongoing arrangements for informal monitoring and support.
- **Conduct fails to reach required standard** – Where acceptable progress has not been made by the end of the assessment period, or at any time during the assessment period if there is a serious deterioration in conduct, the member of staff will be invited to another formal meeting in accordance with the next appropriate stage of the procedure.

### **Stage Two**

If following the Stage One meeting and any resulting assessment and monitoring period:

- a) the required standard of conduct has not been reached;
- b) the standard of conduct has deteriorated further; or
- c) there are further allegations of misconduct,

another formal meeting will be convened, giving the employee at least 5 working days written notice. If dismissal is a potential outcome, either as a result of a final written warning being issued at Stage One, or because of the seriousness of the concerns, the matter should instead be referred directly to Stage Three for consideration by Governors.

The meeting will usually be conducted by the same person (headteacher or manager) responsible for conducting the formal meeting(s) held under Stage One of the procedure, and the substance of the meeting will be similar, whilst recognising the increased level of concern and the implications for the employee of a failure to improve.

After the meeting, the headteacher or manager will review the evidence and discussion which took place and decide, on balance of probability, whether the concerns or allegations are founded and what appropriate course of action to take from the following options:

- **No formal action** – this may be applicable where allegations are determined to be unfounded or unsubstantiated, or where some concerns remain but there has been sufficient improvement in conduct that informal management action is now deemed to be a more appropriate response.
- **Final written warning** – this will be appropriate where serious concerns about the standard of conduct remain, in spite of any further support or guidance provided.

The employee will be notified of the decision as soon as possible following the meeting and, in any event, in writing within 5 working days. They will be informed, either at the same time or as soon as possible thereafter, of any arrangements in place for assessment and monitoring. The letter to the employee will also confirm the period during which any written warning issued will remain live (see also 'Warnings', section 7) and the employee's right to appeal the decision in writing within 5 working days of receipt. The appeal may be heard by the headteacher, if they were not involved in the initial decision, otherwise it will be directed to the Clerk to the Governing Board, who will convene a Governor's Appeal Panel for the purpose (see also 'Appeals', section 6).

More than one formal meeting may be held under Stage Two if appropriate to the circumstances.

### **Stage Three**

If, following the Stage Two meeting and any resulting assessment and monitoring period:

- a) the required standard of conduct has still not been reached;

- b) the standard of conduct has deteriorated further; or
- c) there are further allegations of misconduct,

or at any stage where the matter has been referred for consideration by the Governing Board, the Clerk to the Governing Board will convene a hearing, providing at least 10 working days written notice to the employee (see 'Scheduling Formal Meetings', section 7). Consideration should be given at this stage as to whether suspension of the employee is appropriate (see 'Suspension', section 7).

An officer of the Local Authority may attend any proceedings where a possible outcome is dismissal. The school's HR Consultant can be contacted to provide advice about this.

The meeting may be adjourned if, in the view of the Chair of the hearing, the meeting cannot continue until either new evidence is investigated or a witness who is absent is called.

As with all formal meetings held in accordance with the procedure, the employee will be entitled to be accompanied by a trade union representative or workplace colleague and will have the opportunity to challenge evidence, question relevant witnesses and state their case.

After the meeting, the governor(s) will consider all the evidence presented to them and reach a decision. As part of the decision-making process the governor(s) will determine whether, on the balance of probabilities, the concerns about the individual's conduct are justified and, if so, what outcome is most appropriate in all the circumstances of the case.

Where dismissal is being considered, the governor(s) will first discount options which could be put forward as an alternative to dismissal, such as demotion or transfer to another post.

The employee will be notified of the decision as soon as possible and in writing within 5 working days. The letter will include confirmation of whether the governor(s) found there to be a case and the outcome and if any formal action is to be taken. As an example, it could be dismissal or a final written warning.

Where the outcome is not dismissal but where there are still concerns, the letter will outline what actions and improvements are needed to obviate the need for a further formal meeting and the employee will subsequently be notified of any further arrangements for monitoring. The letter to the employee will also confirm the period during which any written warning issued will remain live (see also 'Warnings', section 7) and the employee's right to appeal the decision in writing within 5 working days of receipt. An appeal against a decision made by Governors will be referred to the Clerk to the Governing Board, who will convene an Appeal Panel by different Governors, uninvolved in the previous decision (see also 'Appeals', section 6).

Following a decision to dismiss, as Riverside School is a London Borough of Bromley

maintained school, the school will issue notice of termination in accordance with the employee's contractual or statutory notice period (whichever is greater). The decision to dismiss will be communicated to the Local Authority which, as the employer of staff, will issue confirmation of the termination of employment. AS a general rule, the employee will not be expected to attend work during the notice period. In cases of gross misconduct, the employee may be summarily dismissed (without notice).

## **6. Appeals**

There shall be a right of appeal against any decision to impose a written warning or other formal sanction as a result of action taken by the employee's manager, the headteacher or by Governors. In exercising this right, the employee must confirm the grounds on which they are making the appeal.

Appeals against warnings issued during Stage One or Stage Two will be heard by the headteacher or one or more Governors, in accordance with the scheme of delegation in place and bearing in mind the need to secure impartiality at every stage of the process. No person will hear an appeal against their own decision. Appeals against dismissal, or against formal warnings or sanctions determined by Governors, will always be heard by one or more Governors with delegated powers. References to the Appeals Panel hereafter may therefore be interpreted accordingly, although the 'panel' could in some cases consist of one person.

An officer of the Local Authority may attend an appeal hearing against a decision to dismiss. The school's HR Consultant can be contacted to provide advice about this.

The Appeal Panel hearing will be arranged to take place as soon as is reasonably practicable, allowing the employee at least 5 working days notice of the date (or 10 working days where the appeal is against a dismissal decision).

The purpose of the meeting is for the Appeals Panel to consider the grounds for appeal and to review the fairness of the outcome of the original meeting. New evidence may be considered at the appeals stage, but no additional grounds for action against the employee may be introduced.

Within 5 working days of the Appeal Panel taking place, the employee will be notified in writing of the outcome, and any actions which have been determined. There is no further right of appeal.

In community and voluntary controlled schools, the Local Authority is responsible for confirming the termination of contract with the employee. The local authority must, therefore, be kept informed about the outcomes of appeals against dismissal.

If a dismissed employee is reinstated on appeal, their salary will be back paid to the date of the original termination, minus any monies already paid in respect of notice.

## **7. Procedural Points and Specific Circumstances**

### **Misconduct**

Misconduct is subject to the disciplinary procedure. Misconduct is less serious than gross misconduct, but could lead to dismissal if the unacceptable conduct is repeated, or multiple misconducts are to be considered (including historic issues and any decisions through the policy that have previously resulted in a warning or other outcome through the procedure). For the purposes of this procedure, examples of gross misconduct include:

- conduct on the part of an employee which is incompatible with the rules, principles and procedures of the school;
- absenteeism, including failure to remain at the place of work during school sessions without permission or sufficient cause, and failure to cause and failure to comply with sickness reporting and absence regulations;
- frequent failure to attend punctually at the school or other workplace;
- abuse of the internet, electronic mail and other communication systems which compromises the integrity of the school, places pupils at risk and results in a lack of trust;
- Failure to comply with reasonable instructions and/ or requirements in accordance with job description;
- unprofessional or offensive behaviour or language;
- minor dishonesty and petty deceptions;
- negligence in failing to attend to or carry out the duties of the post, failure to observe operational regulations/ procedures and the rules of the school/ authority;
- wilful neglect of duty, such as failure to adopt safe working practices, negligent use of school property;
- failure to comply with hygiene requirements, accident reporting procedures and the requirement to wear protective clothing in accordance with health and safety legislation and LA/ school requirements; and/or
- other actions/ practices of a similar nature/ severity.

This list is illustrative and is not intended to be exhaustive.

### **Gross Misconduct**

Gross misconduct is deemed to be misconduct which is serious enough to overturn the contract between the employer and the employee, thus justifying summary dismissal (dismissal without notice). For the purposes of this procedure, examples of gross misconduct include:

- theft or fraud;
- physical violence or bullying;
- deliberate and serious damage to property;
- serious misuse of position, the school's property or name;

- deliberately accessing internet sites containing pornographic, offensive or obscene material;
- serious insubordination;
- sexual misconduct, at or away from work, which affects the employee's suitability to work with children and young people;
- falsification of qualifications or provision of deliberately misleading information used as the basis for employment decisions;
- unlawful discrimination or harassment;
- bringing the school into serious disrepute;
- serious incapability at work brought on by alcohol or illegal drugs;
- causing or risking loss, damage or injury through serious negligence;
- a serious breach of health and safety rules;
- a serious breach of trust and/ or confidence; and/ or
- behaviour that is seriously inappropriate and incompatible with the employee's role and position.

This list is illustrative and is not intended to be exhaustive.

Gross misconduct will also include circumstances where a failure of work performance is so serious that summary dismissal is justified. Such serious instances are rare but may occur where the evidence points to the occurrence of damaging or dangerous errors, omissions or negligence which, even where the result was unintentional, have the effect of seriously undermining trust and confidence in the individual.

### **Disciplinary Investigations**

The nature and extent of any investigation into alleged misconduct will depend on the seriousness and complexity of the matter under consideration. The individual's line manager (or the headteacher, as appropriate) will carry out preliminary enquiries to establish whether or not there appears to be a case to answer. Based on the outcome, either no further action will be taken, or a disciplinary investigation will be initiated. Some allegations will require referral to one or more outside agencies for advice before an internal investigation can be authorised; for example, those involving child protection, financial irregularities or other potential criminal activities. The guidance of the Local Authority Designated Officer (LADO) will be sought at the earliest opportunity in any case involving allegations of a child protection nature against a member of staff, and the Local Authority's procedure for investigating and managing such allegations will be followed.

Except where the Police or Local Authority Designated Officer (LADO) have advised otherwise, the employee will be informed of the nature of the allegations against the and provided with full details of these, as well as confirmation that an investigation is underway and by whom.

An investigatory interview with the employee will be held, giving reasonable advanced notice. While there is no entitlement to be accompanied at such a meeting, a reasonable request to be accompanied by a trade union representative or work colleague will be

given due consideration, provided that a lack of availability on the part of the companion does not hinder the progress of the investigation.

Where possible, investigations will be completed within 4 working weeks. In more complex cases, however, particularly where outside agencies are involved, this cannot always be achieved. In such circumstances, the employee will be kept informed about the progress of the investigation and the outcome will be communicated at the earliest opportunity.

## **Suspension**

There may be instances where suspension on full pay is necessary while investigations into concerns or allegations about conduct are carried out. Suspension is not an assumption of wrongdoing and is not considered to be a formal sanction. It is most likely to be deemed appropriate when:

- the allegation relates to a matter of gross misconduct;
- where the alleged misconduct has, or is liable to put other parties or property at risk;
- where there are reasonable grounds for a belief that the investigation may be compromised by the individual's ongoing presence (e.g., through tampering with evidence or influencing witnesses); and/ or
- where relationships have severely broken down.

A decision to suspend will not be made until alternative courses of action have been considered, such as transfer to an alternative post or temporary allocation of other duties.

In accordance with current school staffing regulations either the headteacher or Governing Board may impose a suspension, but only the Governing Board may lift it. The Governing Board may delegate its functions in this regard to the Chair of Governors.

If it is the headteacher who is the subject of the disciplinary procedure, the Governors must authorise the suspension.

The employee will be permitted to be accompanied to the meeting by either a colleague or trade union representative.

Where suspension lasts longer than 4 weeks, it will be reviewed thereafter at regular intervals, and the employee kept informed about progress. Where an investigation can find no case to answer, the suspension will be lifted, and the employee supported to reintegrate into work as soon as possible.

## **Scheduling Formal Meetings**

A written notification of the formal meeting should be received by the employee no later

than 5 working days before the hearing. The written notification should include:

- details of the alleged misconduct and its possible consequences;
- copies of any written evidence, including witness statements;
- the time, date and location of the disciplinary meeting (including the details if the meeting is to be held over video conferencing, if relevant);
- a statement that the employee has the right to be accompanied by a colleague or a trade union representative;
- notification that the employer intends to call witnesses (if relevant);
- a request that if the employee intends to call a witness, they should notify the employer;
- names of the staff member(s) who will conduct the hearing;

Meetings should be held during the employee's usual working day. Other arrangements can be made by mutual agreement. School closure periods will generally result in a temporary suspension of the procedure.

The employee is expected to make every effort to attend meetings at the required time. The school will, where reasonably practicable, seek to liaise with the employee regarding the availability of their chosen work colleague or trade union representative to ensure that postponements are not necessary. If the employee's work colleague or trade union representative is unable to attend, an alternative date may be suggested by the employee. This will not be unreasonably declined, provided it can be accommodated by those conducting the hearing, and does not result in an unacceptable delay. As a general rule, a delay of up to 5 working days will be acceptable, but the school will consider each request on its own merits. Any subsequent postponements, or a failure of the employee to turn up to a scheduled meeting without good reason, is likely to result in the formal meeting proceeding as planned and being decided on the basis of other available evidence.

### **Formal Action Against Trade Union Representatives**

Where a formal investigation or formal meeting is being arranged in accordance with this procedure in relation to a trade union representative employed by the school, the case must first be discussed with a full-time official from the appropriate union after obtaining the employee's agreement.

### **Warnings**

The period during which a warning will remain 'live' for the purposes of this procedure is not definitive and may be varied according to the circumstances of the case. As a general rule, written warnings will remain live for a period of 12 months, after which point they will be disregarded. A longer warning period may be appropriate in certain cases, for example where there has been a history of variable performance, a repetition of similar matters of misconduct or where a longer warning period was determined as an alternative to dismissal. The headteacher may exercise discretion to disregard the

warning prior to its documented expiry date in circumstances where the employee has reached and maintained an acceptable standard, confirming this in writing to the employee. Where Governors have issued a warning as a result of a formal meeting held during Stage Three of this procedure, the Governing Board will usually delegate the discretion to review the warning to the headteacher.

### **Ill-Health Absence**

The ill-health absence of an employee during the procedure will not result in any delay to convening meetings or hearings beyond what is reasonable in the circumstances. One attempt to reschedule a meeting will be made where ill-health absence intervenes, and it should be explained to the employee that if they are still unable to attend on the rescheduled date the meeting will proceed in their absence. The employee will be offered the alternative options of making a written submission and/ or asking their companion to attend the rescheduled meeting to make oral submissions and to question witnesses on their behalf, before a final decision is reached.

Absence which appears to have been triggered by the investigation of the procedure or which occurs during an assessment and monitoring period will usually be referred immediately to the school's Occupational Health provider to obtain advice. If the absence becomes long-term, then this will be dealt with in accordance with the school's absence management procedures.

### **Grievances**

Grievances which relate directly to the operation of this procedure will be addressed in accordance with the existing rights under this procedure to state a case and to appeal against any formal action taken. Grievances which are not directly related to capability or disciplinary proceedings will be dealt with separately in accordance with the school's Grievance Policy and Procedure without delay to the progress of this procedure.

### **Overlapping Conduct and Capability Issues**

On occasion, if an employee may not be meeting the required standards of work either in terms of their performance or conduct, then parallel procedures will be instigated. In such cases, issues of conduct may be considered alongside performance issues in a single formal meeting to simplify scheduling arrangements.

### **Data Protection**

Riverside School processes personal data collected during the investigation stage and any subsequent stages of disciplinary action in accordance with its Data Protection Policy. In particular, data collected as part of the investigation stage and any subsequent stages of disciplinary action is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in

accordance with the Data Breach Policy immediately. It may also constitute a disciplinary offence, which will be dealt with under this Disciplinary Procedure.

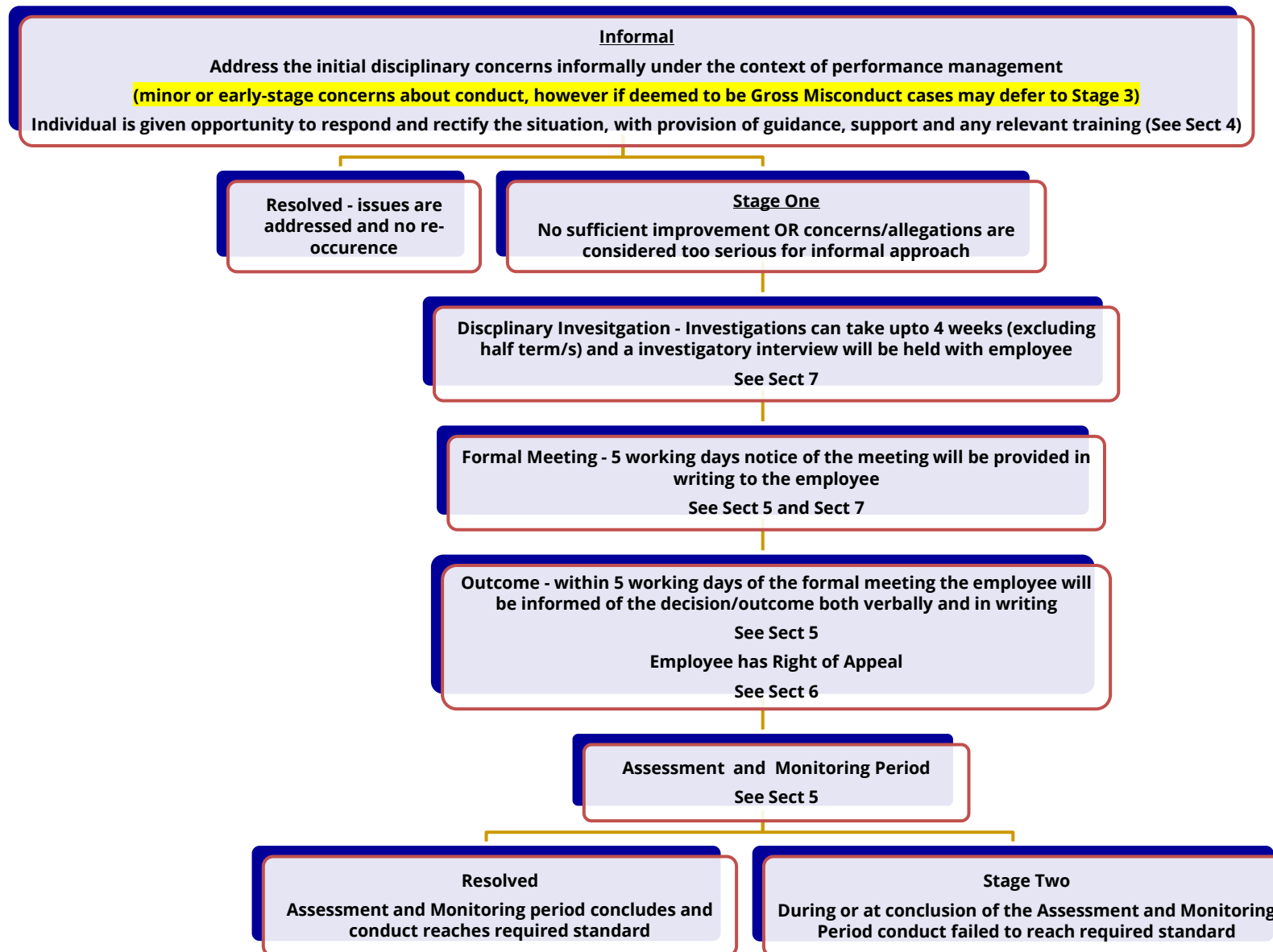
### **Referrals to Professional bodies and Other Agencies**

The school adheres to all procedures in relation to the requirement to make referrals to the relevant regulatory bodies in respect of matters of concern regarding the safeguarding of children and young people and, in respect of teaching staff, other matters of misconduct which resulted in, or would have been likely to have resulted in, dismissal.

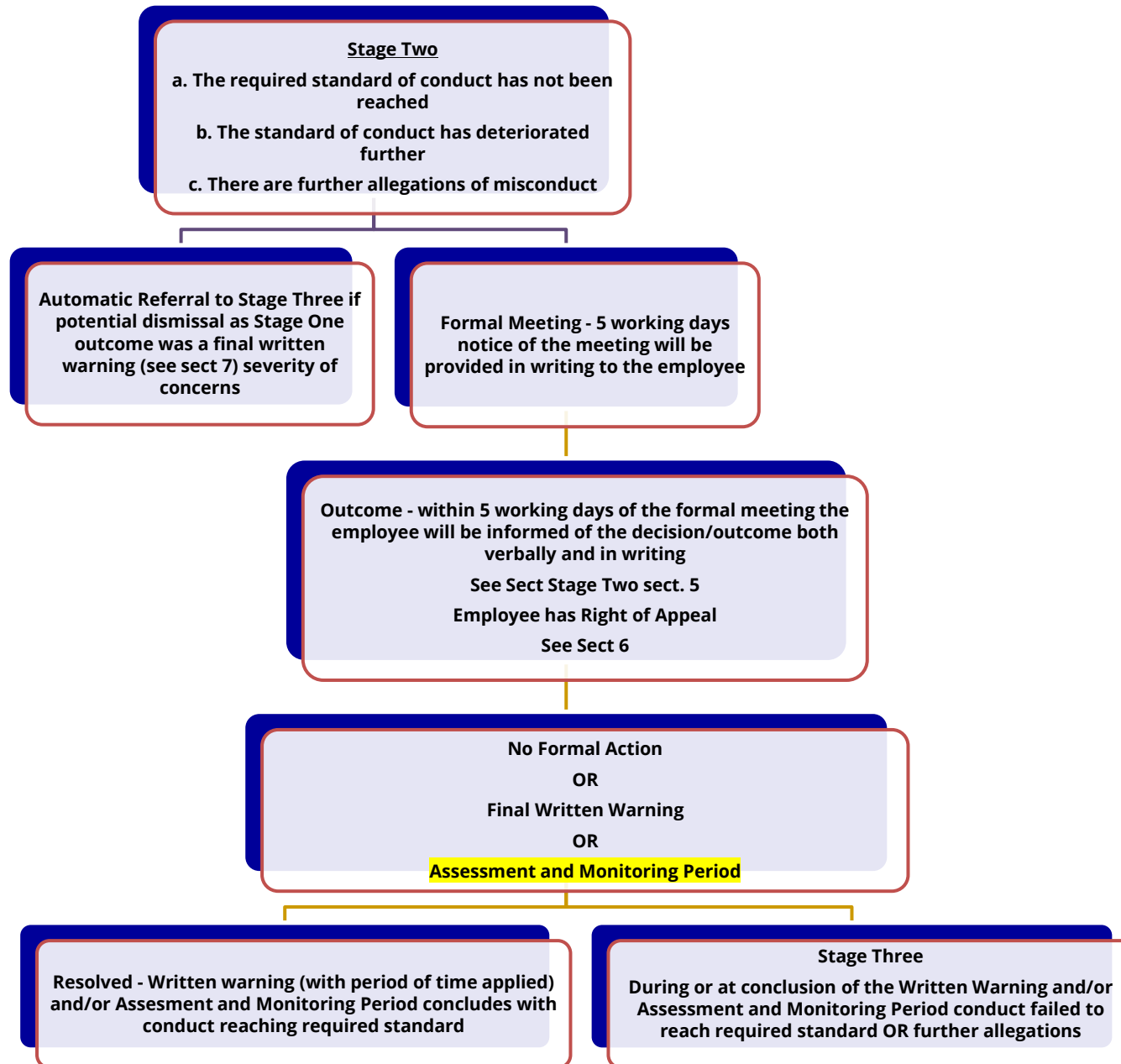
### **8. Monitoring and Review**

The contents and operation of this procedure is reviewed on an annual basis by the Governing Board. The policy is discretionary and does not confer any contractual rights.

## Appendix 1 – Disciplinary Policy and Procedure Flow Chart Informal and Stage One



## Stage Two



## Stage Three

