

Ethos Academy Trust

**Disciplinary Policy**

**March 2024**

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| **1** | **Summary** | Disciplinary Policy | | | |
| **2** | **Responsible person** | Jane Burton – HR Manager | | | |
| **3** | **Accountable ELT member** | Jane Burton – HR Manager | | | |
| **4** | **Applies to** | All Staff  Support Staff  Teaching Staff | | | |
| **5** | **Trustees and/or individuals who have overseen development of this policy** | N/A | | | |
| **6** | **Headteachers/Service Heads who were consulted and have given approval (if applicable)** | N/A | | | |
| **7** | **Ratifying committee(s) and date of final approval** | Trust Board  03.04.2024 | | | |
| **8** | **Version number** | 1.1 | | | |
| **9** | **Available on** | Every | Y  N | Trust Website  Academy Website  Staff Portal | YN  YN  YN |
| **10** | **Related documents**  **(if applicable)** |  | | | |
| **11** | **Disseminated to** | Trustees  All Staff  Support Staff  Teaching Staff | | | |
| **12** | **Date of implementation (when shared)** | 08.04.2024 | | | |
| **13** | **Date of next formal review** | 31 March 2027 | | | |
| **14** | **Consulted with Recognised Trade Unions** | Y N | | | |

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| **Date** | **Version** | **Action** | **Summary of changes** |
| February 2024 | 1.1 | Review | Amended onto the new Trust template and definitions section added. |

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**Definitions**

For the purpose of understanding where the wording line manager or Headteacher is used within this document, please note the Scheme of Delegation within the Trust means that these terms relate to the relationships below and each employee should relate their own circumstances to ensure they understand how the policy effects them.

* CEO – Line managed by Chair of Trust and another independent person where required.
* CEO – Line manager to Director of Education, Chief Finance and Operations Officer and where appropriate Executive Heads and Headteacher.
* Director of Education – Line Manager to School Improvement Team, where appropriate Executive Heads, Headteacher and Head of School.

Line Management responsibilities may be delegated to other appropriate members of staff.

1. **Purpose and Scope**

This Policy aims to:

* Help and encourage all employees to achieve and maintain satisfactory standards of conduct;
* Set out the procedures for when an employee’s conduct falls below the expected standard; and
* Ensure that all employees are treated fairly and consistently when a disciplinary issue is being dealt with.

1. **Key Legislation, Guidance and Related Policies**

This Policy has been drafted in line with the ACAS Code of Practice on Disciplinary and Grievance and other relevant general employment law.

These procedures also comply with our articles of association and schemes of delegation.

Related Policies include:

* Capability Policy
* Staff Code of Conduct
* Grievance Policy
* Teacher Standards

The above list is non-exhaustive and disciplinary matters may include consideration of a number of other policies.

1. **Key Principles of the Disciplinary Policy**

* These procedures apply to all employees of Ethos Academy Trust (“the Trust”). It does not apply to agency workers or self-employed contractors.
* If information is provided, or allegations are made, which relate to possible safeguarding concerns, it is essential that this information is notified to and shared with the Local Area Designated Officer (“LADO”), Designated Safeguarding Lead, Headteacher and other agencies that may be appropriate in accordance with the relevant statutory legislation.
* All employees will be treated fairly and consistently, with any required reasonable adjustments being addressed accordingly.
* Disciplinary matters will be handled professionally, objectively, fairly and equitably.
* Disciplinary matters will be dealt with quickly and without unreasonable delay.
* Disciplinary matters will be dealt with confidentially and staff subject to these procedures and any witnesses are required to abide by this.
* All employees will be given the right to be accompanied at any formal meeting by a Trade Union Representative or work colleague.
* The Trust does not allow for the recording of any formal meeting unless identified as a reasonable adjustment and requested accordingly.
* All employees are required to, and have a responsibility to, co-operate with any investigation into conduct and attend any disciplinary hearings that are required.
* All employees have the right to appeal any formal disciplinary outcome.
* Informal resolution to matters will be explored, where appropriate, prior to instigating the formal procedure.

A list of the Circumstances Warranting Disciplinary Action is at Appendix A of this Policy.

1. **Support Available During a Disciplinary Procedure**

Any person who may be the subject of a disciplinary process can seek support from one of the following sources:

* HR
* Trade Union
* Occupational Health
* Schools UK

1. **Informal Resolution of Disciplinary Issues**

It is expected that management will address conduct and behaviour issues as soon as possible and in general through the day to day management process and one on one sessions.

In most circumstances, the Headteacher or nominated representative will carry out a brief preliminary investigation into any allegations. The purpose of this is to gain information to evaluate how serious the allegation(s) are and to determine whether further action needs to be taken. This could be a private conversation with the employee or a process involving more than one party discussing the issue or allegation(s). Sometimes, other relevant witnesses may be approached for further information.

As this is an informal meeting, there is no “right” to representation from a Trade Union representative or a work colleague. However, it is recognised that there can be benefit in employees contacting their Trade Union at an early stage on an informal basis to discuss issues, especially if this may assist in preventing cases from escalating to the formal stage unnecessarily.

In the event that the preliminary investigation results in the finding that the matter is a case of minor misconduct or unsatisfactory behaviour, then it may be dealt with informally. In some cases, additional training, coaching, management instruction or advice on future conduct/behaviour may be sufficient to resolve any problems. It may be appropriate to follow this up with a letter advising what action needs to be taken by the employee. Where possible brief notes should also be kept of any informal action for reference purposes.

Matters may be escalated to a formal process in the event of any of the following:

* There has been no resolution or acceptance of misconduct;
* The issue is too serious to resolve informally;
* There are repeated or multiple instances of misconduct; or
* There is suspected gross misconduct.

If formal procedures do need to commence, then the employee will be informed of this by the Headteacher or nominated representative and this will be followed up in writing.

1. **Precautionary Suspension**

There may be instances where suspension from duty, with pay, is necessary whilst investigations are carried out for example:

* Where there may be safeguarding risks;
* Where a relationship has or appears to have broken down;
* Where there might be risks to an employee’s, Trust or Academy property;
* Where there may be reasonable grounds for concern that evidence has been (or may be) tampered with or destroyed;
* Where witnesses may be pressurised; or
* In potential gross misconduct cases.

The above list is not exhaustive.

The decision to suspend should only be taken after careful consideration and should be reviewed periodically to ensure that it is not unnecessarily protracted. Suspension is a neutral act (i.e. there is no assumption of guilt) and is not considered a disciplinary sanction.

All suspensions must be authorised by a Headteacher.

1. **Formal Investigation**

Before commencing or conducting any investigation, the Headteacher/HOS or Appropriated Trust Leader will seek advice from HR.

An independent Investigating Officer will be appointed by the HR Manager, who is at the appropriate level. In most cases, it is expected that a Headteacher, Deputy Headteacher, HR or Manager would conduct the investigation, however they may be sufficiently removed from the subject matter that is being investigated. Where the case is more complex, it may be that an independent Investigating Officer is appointed.

The purpose of the investigation is to establish the facts of a case and any relevant evidence. If necessary, the Investigating Officer will hold investigatory meetings.

1. **Stages of a Formal Investigation**

The order of events needs to be planned on a case by case basis, the below is intended as general guidelines.

1. **Investigatory Interviews**

The employee will be informed in writing if a formal investigation is necessary, which will set out:

* The allegations or areas of concern, the purpose of the meeting and the potential outcomes;
* The date and time of any investigatory meeting; and
* The right to be accompanied/represented by a Trade Union Representative or a work colleague at an investigatory meeting, not involved in the process, which is the responsibility of the employee to arrange.

At the meeting with the employee concerned, the objectives for the investigation are explained, the circumstances of the suspected or alleged conduct are discussed and the employee is made aware of the next steps in relation to the investigation and possible outcomes.

Witnesses are contacted and may be required to attend a meeting or provide a written statement, which will be determined by the Investigating Officer.

Witnesses are advised that their signed accounts may be used in a formal procedure and may be given to the employee concerned. They should also be advised that they may have to give evidence personally at a disciplinary hearing, subsequent appeal or Employment Tribunal.

Written notes of all meetings are made by the Investigating Officer and sent to the employee or any witnesses for agreement and approval. Employees and witnesses will be given the opportunity to review their account before signing.

1. **Report Writing**

The Investigating Officer will collate and analyse the facts and documents and complete an Investigation Report. This report is presented at a Disciplinary Hearing, should it be determined that this is necessary.

The Investigation Report may include a recommendation to suggest whether further action is necessary.

1. **Decision Making**

A decision will be made as to whether a Disciplinary Hearing is required.

1. **Notification**

The employee will be notified of the outcome of the investigation in writing.

If there is no case to answer, the employee concerned must be informed as soon as possible.

Where the investigation relates to a safeguarding concern, however, a note must be retained on the employee’s file detailing a summary of the concerns raised (it must note no formal action taken and the employee must sign to indicate that they are aware such a record is being made).

If a Disciplinary Hearing is to be arranged, the employee must receive advance notice of the time, date and venue of the Hearing. Ten working days’ notice is required of the Hearing. The meeting may be sooner if agreed by both parties. The notification letter will also include:

* The specific nature of the alleged misconduct;
* The possible outcome of the Disciplinary Hearing if the allegations are considered proven;
* Copy of the investigation report, including copies of any witness statements (redacted where appropriate);
* Notification if the employer intends to call any witnesses;
* The right to be accompanied by either a Trade Union representative or a colleague not involved in the process;
* The date, time and location of the Hearing (a neutral location should be considered where necessary);
* The names of the intended Disciplinary Hearing panel members; and
* A copy of the Disciplinary Policy.

If the employee intends to call any witnesses, they should notify the Trust at least 7 working days before the Disciplinary Hearing.

All documents to be used at the Disciplinary Hearing by both parties will be exchanged at least 5 working days in advance of the Disciplinary Hearing.

If the employee’s companion is not available, then the employee can request to postpone the Disciplinary Hearing to a convenient time, no later than 5 working days after the original date.

If the employee is unable to attend the Disciplinary Hearing without communication or valid reason, then the Disciplinary Panel may proceed in their absence.

1. **Disciplinary Panel**

The Disciplinary Panel may consist of either the Headteacher or CEO or a panel of three Trustees. The person/panel hearing the disciplinary case, where possible, should be at a higher rank than the Manager/ Individual investigating the circumstances of the case.

1. **Disciplinary Hearing**

A procedure for the conduct of Disciplinary Hearings can be seen at Appendix B of this Policy.

The Headteacher / CEO / Panel making the decision at a Disciplinary Hearing will act reasonably and objectively in the interest of fairness to the Trust and its employees.

The purpose of the Disciplinary Hearing is to enable the Headteacher / CEO / Panel to decide whether it is more likely than less likely that the employee did what is alleged and if so, what appropriate action should be taken in the circumstances.

The objective of the Hearing is to provide the opportunity for the presentation and questioning of the evidence, statements and/or witnesses.

Notes will be taken and used if an appeal is made.

Tape recordings of any meetings/hearings are not permitted.

1. **Potential Outcomes**

The Disciplinary Process has 2 elements:

* Whether there has been a finding of misconduct and its severity; and
* What sanction, if any, should be imposed.

1. **Formal Disciplinary Warnings**

Any outcome under this Disciplinary Policy will be recorded in writing and the employee clearly informed:

* That it is a formal warning under this Disciplinary Procedure;
* The nature of the allegations and the decision made in relation to each point (if there is more than one);
* The implications of the warning;
* The length of time the warning will be “live”; and
* Their rights to appeal.

Employees must be sent written confirmation of the outcome within 10 working days of

the decision, along with their right to appeal.

The range of formal Disciplinary Warnings under this Policy are as follows:

|  |  |
| --- | --- |
| **Formal Disciplinary Warnings** | **Periods these remain “live”** |
| Recorded Verbal | 6 months |
| Written | 12 months |
| Final Written | 18 months |

1. **Dismissal**

If the decision of the Disciplinary panel is to recommend dismissal, the Disciplinary panel may terminate the employee’s employment with immediate effect and with payment in lieu of notice.

The Employee will in any event be entitled to payment of any accrued untaken annual leave.

1. **Gross Misconduct**

If the dismissal is as a result of gross misconduct then dismissal can be without notice or payment in lieu of notice.

1. **Alternatives in Substitution of Dismissal**

If the decision is to recommend dismissal, depending on the circumstances of the case and the mitigation presented, one or more of the following alternatives may be given along with a Final Written Warning, in substitution of dismissal.

* A period of suspension without pay;
* Demotion to a lower graded post; and/or
* Transfer to a different location.

If the above alternative is imposed as an alternative to dismissal, there is no appeal right against the alternative as this would be an agreed variation to the employees’ contract.

The only appeal is against the original decision to dismiss, therefore should the employee wish to appeal; the decision to dismiss will stand and take effect from the date of the hearing.

1. **Appeal**

Please see Appendix C for the procedure to be followed at an Appeal Hearing.

Where an employee wishes to appeal against a disciplinary outcome, such appeal should be submitted within 10 working days of the letter confirming the decision being received by the employee.

The appeal must be in writing to the Chair of Trustees and shall specify the grounds of the appeal. No person who heard an earlier disciplinary hearing may take part in the decision at a later disciplinary hearing or an appeal.

In the event of an appeal against dismissal, there may be a full rehearing of the case as originally presented. New evidence may be submitted by either party only where the new evidence is deemed to be of such significance. In the event of new evidence, it may be appropriate for the appeal committee to defer a decision or take a view that a new investigation should take place.

In the event of an appeal against a disciplinary warning, the purpose of the appeal will be to consider the grounds upon which the employee is dissatisfied with the outcome.

In reviewing the case, the appeal panel, in taking account of all of the evidence, will be required to consider the grounds for appeal and determine whether the decision to apply a disciplinary sanction was reasonable and that the appropriate sanction was applied in the circumstances.

A minimum of 10 working days’ notice will be given for an Appeal Hearing. All documents to be used at the Appeal Hearing by both parties will be exchanged at least 5 working days in advance of the Appeal Hearing.

Tape recordings of any appeal meetings/hearings are not permitted.

1. **Sickness Absence During a Disciplinary Investigation/Hearing**

Where an employee reports sick and is in receipt of a GP’s medical certificate, consideration should be given, where appropriate, to postponement of the procedure and a referral to Occupational Health.

Reasonable opportunity must be given for an employee to state their own case personally.

If the employee is not expected to return to work in the short term, it may be fair to go ahead with the hearing in their absence, once the employee and, if appropriate, their representative, have been informed of this. The employee’s representative must be given the opportunity to present or provide the employee’s written submissions in their absence.

1. **Disciplinaries Involving Senior Members of Staff**

Where a Headteacher or the CEO is alleged to have committed an act of misconduct, a Trustee will take the place of a Headteacher in dealing with the process. Advice must be sought from HR in these circumstances.

1. **Counter Allegations**

During an investigation or disciplinary process, it is not uncommon for a grievance to be raised, which may include a complaint relating to the issues or incidents being investigated. Should this be the case, consideration should be given to the appropriateness of continuing with the investigation or dealing with the issue raised in the complaint before proceeding or as part of the disciplinary proceedings.

If a grievance is raised during the process, it does not mean that the investigation will automatically cease or be postponed.

1. **Criminal Offences**

All staff employed in a school environment are classed as being in a “notifiable occupation”. Therefore, where an alleged criminal offence takes place whilst the person is on or off duty, and their ability or suitability for continued employment at the Trust is in question (particularly if the allegation relates to abusive, inappropriate or unprofessional behaviour), then this must be dealt with under these procedures.

All staff have a responsibility to report any cautions, conviction or allegations immediately to the Headteacher, which will normally be considered in the framework of these procedures.

1. **Sickness**

If a long-term absence appears to have been triggered by the commencement of the disciplinary procedure, the case will be dealt with in accordance with the Trust’s Staff and Sickness Absence Policy and will be referred to as soon as possible to the Occupational Health service to assess the staff member’s health and fitness for continued employment and the appropriateness or otherwise of continuing with monitoring or formal procedures. In some cases, it will be appropriate to continue with formal procedures during a period of sickness absence.

1. **Monitoring Arrangements**

The effectiveness of this policy will be monitored by the CEO, HR, and Trustees.

The Policy will be revised every three years but can be revised as needed.

The Policy will be approved by Trustees.

**Appendix A - Circumstances Warranting Disciplinary Action**

The following list is for advisory purposes only and is not intended to be an exclusive or exhaustive list. It gives examples of the types of misconduct which may be considered as sufficiently serious to render the employee liable to possible formal disciplinary action up to and including possible dismissal. There will be other types of misconduct not on the list, which may warrant disciplinary action. All the relevant circumstances of each particular case must be taken into account.

* Contravened or has continued to contravene any safe practice guidance given by his/her organisation or regulatory body.
* Exploited or abused a position of power.
* Acted in an irresponsible manner which any reasonable person would find alarming or questionable given the nature of work undertaken.
* Demonstrated a failure to understand or appreciate how his or her own actions or those of others could adversely impact upon the safety and wellbeing of a child/work colleague.
* Demonstrated an inability to make sound professional judgements which safeguard the welfare of children.
* Failed to follow adequately policy or procedures relating to safeguarding and promoting the welfare of children.
* Failed to understand or recognise the need for clear personal and professional boundaries in his or her work.
* Behaved in a way in his or her personal life which could put children at risk of harm.
* Become the subject of criminal proceedings not related to his or her employment, including driving offences.
* Become subject to enquiries under local child protection procedures.
* Behaved in a way which seriously undermines the trust and confidence placed in them by the Trust.
* The theft of, unauthorised possession of, or wilful damage to property belonging to the Trust, its suppliers, contractors, agents, members of the public or any other employee.
* Deliberate falsification of school/the Trust’s documents, for example, student/learner information, attendance sheets, subsistence, travel or other expense claims.
* The fraudulent obtaining of money or other property from the Trust, its suppliers or members of the public.
* The commission of an assault on any person or indecent behaviour by an employee whilst on the school’s/Trust’s premises or on the school’s/Trust’s business.
* The consumption of alcoholic beverages, or drugs not prescribed by a medical practitioner, which reduces the ability of the employee to work with due regard for the safety and welfare of themselves and others whilst at work or on the premises.
* Unauthorised drinking during working hours or being under the influence of alcohol or a drug whilst engaged in work activities or on the school’s/Trust’s premises.
* Other than in the performance of normal duties using or releasing to the public any information which the school/Trust has designated as confidential without express written permission.
* The commission of a criminal offence which renders the employee unsuitable or unable to carry out the duties for which they are employed.
* The persistent and wilful refusal to carry out a reasonable instruction despite warnings of the consequences of continued refusal.
* The commission of a serious breach of duty prejudicial to the Trust’s relations with members of the public or other outside contacts, or any impact on the damage and/or standing or position of the school in the community.
* Harassment against other employees, recipients of the school’s services or members of the public, in contravention of the Trust’s/school’s Policies.
* Discrimination or victimisation against other employees, recipients of the school’s services or members of the public in such a way which contravenes the Equality Act 2010 any other anti- discrimination legislation or any of the school’s policies on equality.
* Action or conduct which could be considered as gross negligence.
* Serious or consistent failure to comply with the Trust’s/school’s policies and procedures on the use of computers and information technology.
* Failure to comply with the duty to report, to an appropriate person or body, knowledge of physical or sexual abuse of a child or vulnerable adult by a member of staff, or other person having contact with the child or vulnerable adult.
* Sending material with a content which contravenes any of the Trust’s/school’s policy. This includes the dissemination of offensive and obscene materials.
* Actions by the employee that lead to an irretrievable breakdown of trust and confidence in their ability to carry out their role within the Trust.

**Appendix B - Procedure for Conduct of Disciplinary Hearings**

**Introduction**

* A disciplinary case will be heard by an Authorised Manager at a higher level than the manager investigating the circumstances of the case. The Authorised Manager may be the Headteacher/CEO or a panel/committee of the Trustees depending on the circumstances.
* The Authorised Manager will be responsible for determining the conduct of the hearing with advice from a member of the Human Resources Department.
* Evidence and/or a statement of the case will have been provided in advance of the hearing to the Authorised Manager and employee in accordance with the requirements of the disciplinary procedure.
* In the event of substantial new evidence being submitted by either side, the Authorised Manager will consider requests for an adjournment.
* The employee has the right to be accompanied by a representative of their choice. This will be a Trade Union representative or other person employed by the Trust.

**The Process**

* The Authorised Manager chairing the meeting will be advised by a representative from Human Resources. Other parties will be the employee (and chosen representative) and the relevant Manager.
* A witness (or witnesses) may be called by either side where they have a relevant contribution to make to consideration of the case.

**Conduct of the Meeting**

* The Investigating Officer will bring the case, and set out the allegation(s) against the employee and the evidence upon which this is based.
* If a witness is to be used they will be called by the Investigating Officer/employee at the appropriate time to give evidence. They may be questioned by those present and will then leave.
* The employee (or representative) will have the opportunity of asking other questions of the Investigating Officer followed by the Authorised Manager/HR representative.
* The employee (or representative) will respond and set out any evidence in support of his/her position.
* The Investigating Officer will have the opportunity of asking other questions of the employee followed by the Authorised Manager/HR representative.
* The parties will have the opportunity of summing up: the Investigating Officer first, followed by the employee (or representative). The parties will then withdraw while the Authorised Manager/HR representative considers the information presented.
* The parties will be called back into the meeting to hear the decision which will be confirmed in writing to the parties within 10 working days of the hearing. If further time is needed by the Authorised Manager to make a decision this will be communicated to the parties and a time frame will be agreed.
* If the decision is to dismiss the employee, the employee should be informed of this decision together with their right of appeal.

**Decision Making**

* The Authorised Manager or Committee of Trustees will deliberate in private with the representative from Human Resources.
* The decision of the Authorised Manager/Committee of Trustees will be based on consideration of the relevant evidence and information presented and will be reasonable given all the circumstances of the case.
* An adjournment may be necessary when the Authorised Manager/Committee of Trustees require further information to make their decision.
* The Authorised Manager may decide to either issue a warning in line with their power of delegated authority and within this policy, refer the case to an identified group of Trustees for dismissal to be considered or take no formal action.
* If points of uncertainty are identified during the Authorised Manager’s deliberation or clarification is required from the parties, both sides will be recalled or further information will be requested either in writing or in person.

**Appendix C - Procedure for Conduct of Appeal Hearings**

**Introduction**

* The employee will be entitled to appeal against an outcome issued under the Disciplinary Procedure or against dismissal on the grounds of misconduct. The appeal will be to an Appeal Panel of Trustees.
* The employee should write to the Chair of Trustees identified in the outcome letter within 10 working days of its receipt, identifying the reasons for the appeal. The Appeal Panel will aim to hear the appeal within 10 working days of receipt of the appeal request.
* Where the employee is appealing against a recorded verbal or written warning, the purpose of the appeal hearing will be for the Appeal Panel to consider the grounds upon which the employee is dissatisfied with the issued outcome.
* Where the employee is appealing against their dismissal, there will be a re-hearing. In addition to the evidence presented at the original Disciplinary Hearing, new evidence may be considered where this was not known or available at the time of that hearing. Both sides will exchange all documents 5 working days ahead of the date of the appeal hearing.
* The purpose of the appeal hearing will be for the Panel to consider whether the decision was fair and reasonable in all the circumstances of the case.

**The Parties**

* The Appeal Panel will be advised by a representative from Human Resources. The other parties present will be the employee (and chosen representative; either a work colleague or trade union representative) and:
* At appeals against a recorded verbal or written warning, a member of the Hearing Panel (and accompanying HR Advisor);
* At appeals against dismissal, the Investigating Officer (and accompanying HR Advisor), in order to represent the case.
* A witness or witnesses may be called by either side where they have a relevant contribution to make to the consideration of the case.

**Conduct of the Appeal Hearing**

* The employee (or representative) will outline his/her case indicating in detail the reason for the appeal.
* If a witness (or witnesses) is to be used they will be called by the employee's side at the appropriate time to give evidence. They may be questioned by those present and will then leave.
* The member of the Hearing Panel will have the opportunity of asking other questions of the employee followed by the Appeal Panel and representative from the Human Resources Department. The member of the Hearing Panel will respond stating his/her case and presenting appropriate evidence.
* If a witness is to be used they will be called by the member of the Hearing Panel at the appropriate time to give evidence. They may be questioned also by those present and will then leave.
* The employee (or representative) will have the opportunity of asking other questions of the member of the Hearing Panel followed by the Appeal Panel and HR representative.
* The parties will have the opportunity of summing up: the member of the Hearing Panel first, followed by the employee (or representative) and the parties will then withdraw while the Appeal Panel considers the information presented.
* The parties will be called back into the meeting (or will be written to, where necessary) to hear the decision which will be confirmed in writing to the parties within 5 working days of the meeting.

**Decision Making**

* The Appeal Panel will deliberate in private with the HR representative. Their decision will be based on consideration of the relevant evidence and information presented and will be reasonable given all the circumstances of the case. An adjournment may be necessary where the Appeal Panel requires further information to make their decision.
* There could be a range of outcomes including confirming the Hearing Panel’s outcome, reduction in the level of warning issued or its cancellation.
* If points of uncertainty are identified during the Appeal Panel’s deliberations or clarification is required from the parties, both sides will be recalled.