



General Principles & Practices of Employment September 2018

Office use

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<p>Associated documents:</p>			

<p>Links to Legislation</p> <ul style="list-style-type: none"> ▪ Keeping Children Safe in Education September 2018 ▪ Disciplinary procedures for the teaching profession published 18 April 2016 ▪ Teacher misconduct: The prohibition of teachers – October 2015 ▪ The Teachers’ Disciplinary (England) Regulations 2012 ▪ Employment Rights Act 1996 ▪ Employment Relations Act 1999 ▪ Employment Act 2008 ▪ Public Interest Disclosure Act 1998 ▪ The Equalities Act 2010 ▪ Fraud Act 2006 ▪ Bribery Act 2010 ▪ Data Protection Act 1998 ▪ ACAS code of practice on disciplinary and grievance procedures 	<p>DALP policies –</p> <ul style="list-style-type: none"> ▪ Capability ▪ Disciplinary ▪ Website and use of social media ▪ Acceptable use of Computers and Internet ▪ Health and Safety ▪ Staff Code of Conduct ▪ Allegations of abuse against staff ▪ Safeguarding/Child Protection ▪ Bullying & Harassment ▪ Whistleblowing ▪ Drug/Alcohol/Substance use ▪ School Teachers Standards/Professional Standards ▪ HR records and retention document
<p>Links to:</p>	

Contents

1	Introduction.....	4
2	Confidentiality	4
3	Consistency of treatment and fairness	4
4	Definitions.....	4
5	Delegation	5
6	Grievances	5
7	Monitoring and Evaluation.....	5
8	Record Retention	5
9	General Guidelines	5
10	The Investigation Procedure.....	6
11	Suspension from work	7
12	Interviewing witnesses.....	8
13	Interviewing the member of staff accused of misconduct.....	9
14	Decision to commence disciplinary proceedings and hearings	9
15	Witness Confidentiality	9
16	Disciplinary.....	9
17	Appeals	10
18	Procedure for Hearing a Disciplinary Appeal	11
	APPENDIX A	13
	This policy applies to all employees, including volunteers, agency workers, consultants or self- Employed contractors.)	13
	APPENDIX B	14
	(To be completed for each member of staff interviewed).....	14

1 Introduction

General Principles Underlying all Employment Policies and Procedures –

Diverse Academies Learning Partnership (DALP) prides itself on good employment relation practices, including recruitment, induction training, communications and consultations. We make every effort to employ positive employment relationships to gain staff members' commitment thorough:

- Defining clear principles and practices
- Providing strong leadership and management and advising staff how they can contribute
- Engaging staff in their work and providing them with the power to make some decisions themselves instead of trying to control and restrict them
- Observing respect, dignity and appreciation
- Embracing staff voice
- Observing the Psychological contract at all times

This guide provides advice and guidance for dealing with discipline, grievance and breaches in staff behaviour within the organisation. The following general principles should be applied when following all employment policies and procedures.

Please refer to these guidelines, regarding the following procedures:

- Disciplinary
- Staff Code of Conduct
- Allegations of abuse against staff
- Capability
- Attendance Monitoring
- Bullying and Harassment

2 Confidentiality

All employment processes will be treated with confidentiality. However, the desire for confidentiality does not override the need for appropriate staff and governors to be involved in the process in order to check and audit the policy/procedure is being implemented fairly and effectively.

3 Consistency of treatment and fairness

In line with the Diverse Academies Learning Partnership values, all employment policies are developed and implemented to ensure consistency of treatment and fairness with reference to all relevant equality and human right's legislation.

4 Definitions

All references to "academy" mean any academy within the Diverse Academies Learning Partnership

5 Delegation

Normal rules apply in respect of the delegation of functions by governing bodies, Principals and Executive Leads.

6 Grievances

Where a member of staff raises a grievance during any procedure the procedure may be temporarily suspended in order to deal with the grievance. Where the grievance and procedure relate to each other, it may be appropriate to deal with both issues concurrently.

7 Monitoring and Evaluation

The Principal/Executive/Operational Lead and governing body will monitor the operation and effectiveness of the Trust's policies and procedures.

8 Record Retention

The HR Team will ensure that all employment records are retained in a secure place for the appropriate period of time (see HR records and retention document) and then destroyed.

9 General Guidelines

9.1 Before determining whether or not there is a disciplinary case to be answered and whether or not a matter should be dealt with formally or informally, DALP will conduct whatever investigations are necessary. An investigatory meeting is not a disciplinary meeting.

9.2 If a member of staff refuses to attend an investigatory meeting, DALP will have to make a decision on whether or not to invite the member of staff to a disciplinary hearing or deal with the matter informally on the basis of the information available. If the member of staff refuses to attend the meeting unaccompanied, the usual principles of fairness apply

9.3 The Investigatory meeting will always be conducted in accordance with DALP's disciplinary policy.

Witnesses of any alleged acts of misconduct will be asked to write statements. If a witness is unwilling to do so, they can be invited to an investigatory meeting to obtain their evidence. Members of staff who have given statements can also be asked to attend an investigatory meeting to clarify issues or obtain further information. Members of staff who are being interviewed as witnesses that (unless applicable) it is not their conduct that is being investigated

9.4 Witnesses who are concerned about potential victimisation as a result of giving evidence must be reassured that DALP will take all reasonable steps to protect them from any such treatment.

9.5 Investigation Officers must complete the Investigation Form in (Appendix B,C and D) where applicable) in order to maintain clear, complete and consistent records, the reason for the investigation, how they have investigated and the evidence found. Appendix B must be completed for each member of staff interviewed, including the individual member of staff undergoing the investigation and any witnesses.

10 The Investigation Procedure

- 10.1 DALP operates an investigation procedure alongside its disciplinary procedure. The purpose of the separate investigation procedure is to allow management impartially to investigate any alleged or suspected misconduct on the part of a member of staff. The objective will be to conduct a full investigation to establish all the facts of the particular case before a decision is taken as to whether or not there are proper grounds to invoke the disciplinary procedure.
- 10.2 The investigation procedure will be handled professionally, objectively and fairly. The process will normally be used only when a member of staff is suspected of committing an act of serious misconduct or act in serious breach of any of the organisation's policies, procedures or rules. It will not normally be used in cases of minor misconduct, which will be dealt with directly and promptly by the individual's line manager.
- 10.3 The member of staff will be informed in writing as soon as possible as to the fact of an investigatory interview and will be advised of who will be conducting it.
- 10.4 It is DALP's policy that, where the disciplinary procedure is invoked following an investigation, the individual who carries out the disciplinary procedure will not be the same person as the individual who conducted the investigation.
- 10.5 DALP has appointed named specific individuals to act as investigation officers as part of this procedure. These appointed individuals have received appropriate training in carrying out disciplinary investigations. The line manager of the member of staff suspected or believed to be guilty of misconduct should contact a member of the HR team as soon as possible after learning of the alleged misconduct, so that one of the appointed investigation officers can be assigned to conduct the investigation (if appropriate).
- 10.6 Disciplinary action will not be undertaken until the facts have been established. For issues, which are of a minor nature or where the facts are not in dispute, a fact gathering exercise will take place prior to taking a decision on whether or not to progress to a disciplinary meeting.
- 10.7 In investigating a member of staff's alleged misconduct, the Investigation Officer will:
- examine any relevant written records, e.g., previous disciplinary warnings on file, and if they are still active, appraisal reports, and managers' notes
 - check whether there are any earlier warnings that have not expired
 - consult any other managers with whom the member of staff has come into contact with to help
 - establish relevant facts
 - Check telephone records and/or computer/IT device records
 - talk privately and in confidence to any members of staff who may have evidence relating to the
 - member of staff's alleged misconduct or who may have been witness to any relevant incident, and produce an accurate written summary of any such evidence
 - seek the consent of any such member of staff to use the summary of the evidence so collected as a signed written statement
 - Take an objective and balanced view of any information that comes to light, and avoid allowing personal views, opinions to influence the assessment of the member of staff's conduct

- 10.8 Depending on the circumstances of the case, the member of staff may be invited to attend an Investigatory interview. If such an interview is held prior to a disciplinary hearing, the member of staff will be informed at the outset that the interview is an investigatory interview. There is no right for members of staff to be represented or accompanied at a formal investigatory interview. DALP reserves the right to dispense with an investigatory interview and to proceed directly to a formal disciplinary hearing
- 10.9 In determining the disciplinary action to be taken, managers should be aware of the need to satisfy the test of what is 'reasonable', and must ensure that each case is investigated thoroughly and all the relevant facts are taken into account.
- 10.10 If managers are unsure of any aspect of implementing the disciplinary procedure they should contact the HR Team for advice and guidance.
- 10.11 The conclusion of the disciplinary investigation
- On completion of the investigation, the Investigation Officer must decide whether or not there is sufficient evidence to justify disciplinary action. If there is, the Investigation Officer will recommend disciplinary procedures, without undue delay. It may be appropriate for the member of staff to be suspended until the disciplinary procedure is complete if the circumstances still justify it.
- 10.12 If no disciplinary action is warranted, the suspension should be lifted and the member of staff will be advised to return to work without delay. It may be that the member of staff feels aggrieved by the period of suspension; therefore it is advisable for the Investigation Officer to have a return-to-work meeting to enable the member of staff to discuss any concerns they may have. The Investigation Officer should assure the member of staff the period of suspension has not affected their position, or continued employment, and they will not suffer any future detriment as a result of the suspension.
- 10.13 Where a member of staff is placed on suspension while a disciplinary investigation is carried out the member of staff will be advised they will not be allowed access to the workplace or colleagues. The Investigation Officer should warn the member of staff any attempt to influence colleagues involved in the investigation will be dealt with under the disciplinary process.
- 10.14 If the member of staff requests access to the workplace during the suspension, for example to retrieve personal property, the Investigation Officer should assess the request and the reason for it and decide whether or not it is reasonable to allow the member of staff access. It may be possible to allow the member of staff (accompanied by a senior colleague) access to the workplace outside of working hours to avoid them coming into contact with colleagues. Alternatively a TU representative may be allowed to collect personal property (accompanied by a senior colleague) on behalf of the employee.

11 Suspension from work

- 11.1 Suspension from work pending an investigation/disciplinary investigation will be with pay and will be imposed only after careful consideration and will be reviewed to ensure that it does not become unnecessarily prolonged.
- 11.2 Suspension is not an assumption of guilt or a disciplinary penalty in itself.

11.3 Suspension from work will be used as a last resort and will be appropriate in the circumstances below: (please note this list is for guidance but is not exhaustive). Please contact a member of the HR Team for advice.

- If the member of staff's conduct would be sufficiently serious to be grounds for summary dismissal, e.g. if an individual:
 - Behaved in a way that has harmed a child, or may have harmed a child
 - Possibly committed a criminal offence against or related to a child; or
 - Behaved towards a child or children in a way that indicates they would pose a risk of harm to children
- Is suspected of theft or bribery on a large scale
- The Investigation Officer has grounds to believe that the member of staff might deliberately cause damage if allowed to remain at the workplace, e.g., computer network
- The member of staff's continuing presence at work might prejudice the investigation in some way
- The member of staff has acted in a violent way or threatened violence
- The member of staff has been accused of bullying or harassment
- The matter under review is of a highly sensitive nature

11.4 The member of staff should be informed:

- Why they are being suspended
- How long the suspension is likely to last
- The suspension is on full pay
- The suspension is not a penalty
- The suspension does not mean the individual has been judged guilty
- The individual will have a full opportunity to state their version of events, explain their conduct, and answer any allegations at a subsequent interview
- Be provided with a named contact at their academy to liaise with during the period of suspension
- To contact their TU for advice

12 Interviewing witnesses

Where a member of staff has, or may have relevant information about an act of misconduct committed by a colleague, the member of staff will be interviewed in private to establish what they know. The relevance and validity of the information obtained will then be considered:

When interviewing a witness the interviewer should;

- Explain the purpose of the interview and the importance of their assistance
- Focus on facts, not opinions and refrain from drawing over – hasty conclusions

12.1 The Investigation Officer should obtain written statements from those members of staff who have relevant information. The statements should be signed and dated.

13 Interviewing the member of staff accused of misconduct

To ensure the interview is effective and fair the Investigation Officer should:

- Prepare a list of relevant questions
- Stick to facts and avoid making assumptions
- Point out and question any discrepancies
- Not be afraid to challenge what the member of staff is saying
- Do not pass disapproval or judgement

14 Decision to commence disciplinary proceedings and hearings

The Investigation Officer must consider:

- The matter objectively
- Take into account all the evidence, including the member of staff's events and explanation of what happened
- Apply the balance of probability
- Take a reasoned decision on whether or not to instigate disciplinary proceedings against the member of staff.

14.1 The Investigating Officer should submit the evidence and make recommendations to the Principal/Executive/Operational Lead who will decide whether or not disciplinary proceedings will be instigated

14.2 If the decision is taken that disciplinary proceedings will commence against the member of staff, the member of staff has the right to be informed of all the evidence against them

15 Witness Confidentiality

Statements provided by witnesses' should be treated as confidential. However, it is not possible to give a witness an absolute guarantee of confidentiality. Members of staff have the right under the Data Protection Act 1998 to request information about them that is held on file. The Investigation Officer can request from the author of the statement to disclose the document or take steps to anonymise the document before disclosure. Ultimately the Investigation Officer should take a reasoned decision whether or not to disclose a witness statement.

16 Disciplinary

16.1 At the disciplinary meeting the member of staff will have the right to be represented by an accredited union representative or colleague. The purpose of the meeting is to give the member of staff the opportunity to present their version of events and any points the member of staff would like the disciplinary panel/disciplining manager to take into account, including mitigating factors

16.2 Where the allegations faced by the member of staff are serious and there is the possibility that a Final Written Warning or Dismissal may be appropriate a disciplinary panel of three

will be appointed in which the Disciplining Manager /chair person should be, where ever possible the Principal or Executive / Operational Lead

- 16.3 A member of the HR Team will be present in an advisory capacity and can also advise on the constitution of the panel prior to the disciplinary meeting
- 16.4 Wherever possible, only in the cases of Dismissal the role of the Disciplining Manager will be undertaken by a more Senior Manager at progressive stages of the Disciplinary Procedure.
- 16.5 Outcome The member of staff may be informed of the outcome of the hearing verbally, but the outcome will be confirmed in writing within 3 days.
- 16.6 Members of staff will be notified of the length of time during which their warning will remain current. Unless circumstances are exceptional, warnings should cease to be "live" following the specified period of satisfactory conduct and should be disregarded for future disciplinary purposes. In exceptional circumstances, there may be occasions where a member of staff's conduct is satisfactory throughout the period the warning is in force only to lapse very soon thereafter. Where a pattern emerges and there is evidence of similar offences, the member of staff's disciplinary record should be borne in mind in deciding how long any current warning should last. In such circumstances, it may be appropriate to extend the time scales indicated
- 16.7 Warnings will generally remain "live" on an member of staff's record for the following periods of time;
- First written warning – Two Terms
 - Final written warning – 12 months*
- *In some circumstances it may be appropriate to extend a final written warning to 18 months as a maximum

17 Appeals

- 17.1 A member of staff may appeal against a disciplinary sanction imposed against them.
- 17.2 Requesting an Appeal Meeting
Where a disciplinary warning has been issued, supplementary action has been taken, or an member of staff has been dismissed, the member of staff will have an entitlement to appeal against the decision. The member of staff must request such an appeal, in writing, stating:
- The grounds of the appeal, and;
 - Whether they are appealing against the findings that they have committed, the alleged act or acts of misconduct, or against the level of disciplinary sanction imposed.

to the Principal/Executive/Operational Lead within 5 working days of notification of the disciplinary action (unless there are exceptional circumstances which must be agreed by the Principal/Executive Lead). Please note that where a member of staff involved in the disciplinary procedure has a disability or literacy difficulties, alternative arrangements can be agreed

- 17.3 In the case of a First Written Warning the appeal should normally be heard within 15 working days of the receipt of the appeal letter, or as soon as reasonably practicable. In the case of

an appeal against a Final Written Warning or Dismissal, due to the senior level of personnel and potentially Governing Body Members required to hear the appeal it may be difficult to arrange an appeal meeting within this timescale. In such cases an appeal meeting will wherever possible take place as soon as reasonably practicable after receipt of the appeal letter.

- 17.4 Normally and wherever possible the manager who will hear the appeal in the case of a First Written Warning will be heard by a manager who is immediately senior to the manager taking the disciplinary action, with a member of the HR team present acting in an advisory capacity. In the case of a Final Written Warning, the appeal may be heard by the Principal/Executive/Operational Lead with the support of the HR Team acting in an advisory capacity, or by a Governor led panel if appropriate. In the case of an appeal against dismissal, a panel should consist of a Senior Executive Lead and at least two Governors with a HR Team present in an advisory capacity.
- 17.5 The members of the appeal panel shall not include any member of DALP who has been directly involved in the circumstances leading to the disciplinary action.
- 17.6 The member of staff may be represented by a union representative or colleague acting in a personal capacity at the hearing.
- 17.7 The following documentation will be provided at least 7 calendar days prior to the date of The appeal date:
- The documentation supporting the management case – which will include a summary of the facts considered at the hearing and the reason(s) for issuing the warning.
 - Any documentation supporting the member of staff's case.
- 17.8 In the event that, since the disciplinary decision was taken, new evidence or information has come to light, it is a requirement that the appeal panel are made aware of this information - and the fact that it was not available at the disciplinary meeting - at least 7 calendar days prior to the meeting. New information should not be introduced at or immediately prior to the appeal meeting.
- 17.9 Purpose of the Appeal Meeting
- The function of an appeal meeting is to ensure that decisions of managers on disciplinary matters (which give rise to appeals) have been taken in accordance with DALP'S agreed disciplinary procedures, and that, following a thorough investigation and consideration of the circumstances of the case; the decisions were reasonable and fair. Appeal meetings are not re-hearings, but rather an opportunity to review the decision made at a disciplinary meeting, it is therefore inappropriate in most circumstances to re-call witnesses at appeal meetings.
- 17.10 The appeal committee is not a court of law. It is intended to provide an objective appraisal of the way in which the disciplinary decision was made. When an appeal meeting has taken place at the appropriate level, the outcome is final and no further appeal is available.

18 Procedure for Hearing a Disciplinary Appeal

- 18.1 At the appeal meeting, the following procedure shall be followed: The member of staff or their representative will summarise the reasons for their dissatisfaction with the disciplinary decision. The disciplining manager will be present during this summary and will

have the opportunity to ask questions of the staff member and their representative. The appeal panel will also have the opportunity to ask questions of the staff member and their representative.

- 18.2 The Disciplining Manager will summarise the management case, presenting the facts considered at the disciplinary hearing and the reasons for issuing the disciplinary warning / dismissal. They will focus on the issues raised as a concern by the staff member or their representative. The staff member and their representative will be present during this summary, and will have the opportunity to ask questions of the Disciplining Manager. The appeal panel will also have the opportunity to ask questions of the Disciplining Manager.
- 18.3 The member of staff or their representative and the Disciplining Manager will have the opportunity to sum up their case if they so wish. The staff member or their representative shall have the right to speak last. In their summing up, neither party may introduce any information that was not included in their original statement.
- 18.4 New evidence will not normally be admissible on the day. If either the Disciplining Manager or the staff member produces new evidence on the day, the panel may at their discretion, adjourn the appeal in order to consider whether the new evidence is admissible. The panel may at their discretion adjourn the appeal for any other reason.
- 18.5 The Disciplining Manager, the staff member, the staff member's representative and any witnesses will withdraw to allow the appeal panel to consider the facts of the case. The appeal panel may uphold or rescind the original disciplinary action, or it may issue a lesser or greater penalty as appropriate. It may also request that a full re-hearing be convened. In this case however, no further right of appeal will apply.
- 18.6 Where an appeal lies against a dismissal by the panel, the panel's decision to dismiss will have had immediate effect and, therefore, if the dismissal is by notice, the period of notice will already have commenced on the date that the decision was given by the panel. If the panel's decision was to dismiss the member of staff summarily without notice, the organisation will be under no obligation to reinstate or pay the member of staff for any period between the date of the original dismissal and the appeal decision and the original date of termination will stand. In the event that the panel's decision to dismiss is overturned, the member of staff will be reinstated with immediate effect and will be paid for any period between the date of the original dismissal and the successful appeal decision. The member of staff's continuous service will not be affected.
- 18.7 The decision of the appeal panel may be confirmed to the staff member verbally following the hearing, but will be confirmed to the staff member in writing within 2 calendar weeks of the appeal. This decision is final.

APPENDIX A

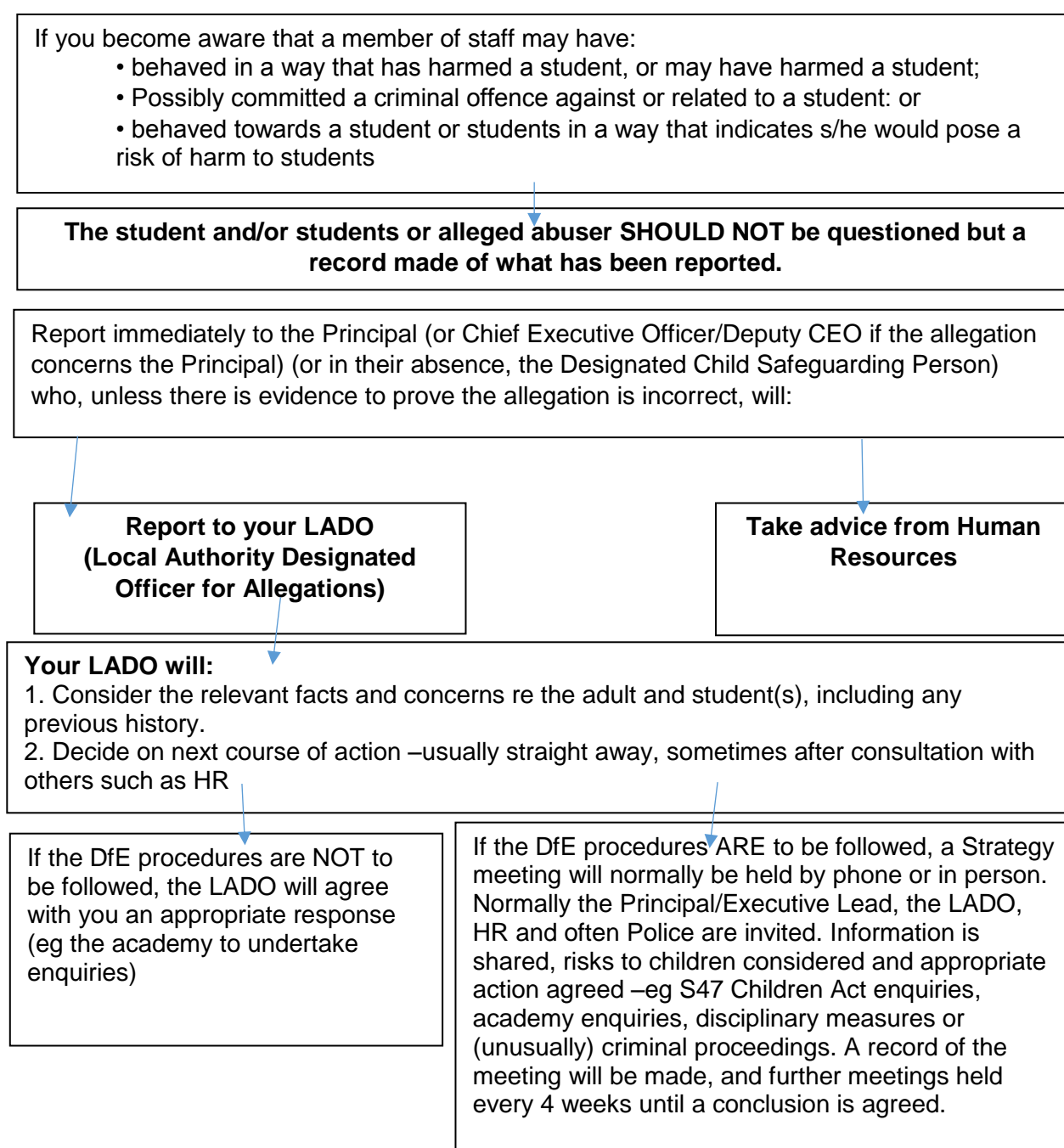
DALP - ALLEGATIONS OF ABUSE AGAINST STAFF – GUIDANCE FLOWCHART

This policy applies to all employees, including volunteers, agency workers, consultants or self-

Employed contractors.)

This document is intended for use as a guide. Please refer to:

1. Keeping Children Safe in Education September 2018 DfE website
2. Working Together to Safeguard Children July 2018 website
3. Refer to “Guidance for Safe Working Practice for the Protection of Children and Staff in Education Settings” available on the DfE website.



APPENDIX B

(To be completed for each member of staff interviewed)

Investigation Form	
Name of Academy:	
Investigation :	
Name of member of staff making report/witness:	
Staff job title:	
Staff department:	
Date of staff report:	
Date of incident:	
Nature of Investigation:	
Summary of allegations/witness statement:	
Date:	
Time:	
Location:	
Those present:	
Details of alleged misconduct/witness evidence:	
Name of Investigation Officer appointed:	
Job Title:	
Department:	

Investigation action plans:	
Investigation Officer's conclusions and recommendations:	
Investigation Officer :	
Signature:	
Date:	