



Diocese of Norwich
Education and
Academies Trust

Unity Federation of Church of England Academies

Disciplinary procedures for all employees

Comprising:

- A) Disciplinary rules for all employees
- B) Misconduct – Headteacher / Principal
- C) Misconduct – all staff except Headteacher / Principal

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Roles and Accountabilities

The Diocese of Norwich Education and Academies Trust is accountable for all policies across its Academies. All policies, whether relating to an individual academy or the whole Trust, will be written and implemented in line with our ethos and values as articulated in our prospectus. We are committed to the provision of high quality education in the context of the Christian values of service, thankfulness and humility where individuals are valued, aspirations are high, hope is nurtured and talents released.

A Scheme of Delegation for each academy sets out the responsibilities of the Local Governing Body and Principal / Head Teacher. The Principal / Head Teacher of each academy is responsible for the implementation of all policies of the Academy Trust.

All employees of the Academy Trust are subject to the Trust's policies.

A) Disciplinary rules for all employees

1. Gross Misconduct

Gross misconduct is the committing of an act which renders it inadvisable for the employee to be allowed to remain at work. Any employee suspected of committing an act of gross misconduct, as indicated in the list below, will be suspended with full pay pending investigation.

Suspension

Suspension under the Academy's Disciplinary Procedure is not in itself a disciplinary penalty. Suspension is necessary when the employer feels unable to keep the employee at work during the investigation into the alleged breach of discipline either because of the seriousness of the allegation, or because the employee's presence at work may hinder the investigation. In an Academy, the Headteacher makes the decision as to whether suspension is appropriate, having taken advice from the Trust and the Trust's HR provider.

It is recognised that a period of suspension is a stressful experience for any employee and it is important that support is available e.g. Trade Union, independent counselling and contact at the Academy in order to minimise any sense of isolation.

During a period of suspension the employee should not attend work nor make contact with pupils, parents, governors or members of staff without the Headteacher's authority.

The employee should, when asked, return any Academy property with which they have been issued. In any event Academy property must not be used during a period of suspension.

If the employee becomes unwell whilst suspended they must follow the Academy's procedure for reporting sickness absences and report their illness to their nominated contact person at the Academy. If the employee is certified by their GP as being unfit for work, they will be paid in accordance with their sick pay entitlement for that period of certification. The employee must also send in their sick certificates to the Academy.

If the employee has pre-booked any leave during the period of suspension, and are therefore not at home and not contactable, it is extremely important that they inform the Headteacher of the duration of the holiday period. Likewise if they are not at their normal address whilst suspended they must inform the Headteacher of the alternative address and, if appropriate, alternative telephone number.

If it is decided not to proceed to a disciplinary hearing, the suspension will be lifted. Any remaining concerns regarding the investigation will be addressed with the employee. Arrangements will then be made for the employee to return to work.

All parties will work to conclude a period of suspension as quickly as is possible. There is recognition that at times a third party investigation (e.g. police or Local Authority Designated Officer (LADO)) will mean that such a decision cannot be taken until authorised to do so.

Investigation

Prior to any disciplinary action, allegations shall be promptly and carefully investigated and statements from witnesses shall be obtained where appropriate. HR advice must be obtained from DNEAT's HR provider which will include advice as to how to conduct an investigation.

Teachers against whom allegations are made shall at any investigative interview have the right to be informed of the nature of the allegations and to respond if they so choose.

Investigation shall, where possible, be undertaken by a senior post-holder other than the head teacher in order that the head teacher is subsequently able to consider matters under informal action or formal disciplinary procedures without prior involvement.

Where there may be potential for a criminal investigation the academy's investigation must only involve limited fact finding so as not to undermine any future police or Local Authority Designated Officer (LADO) investigation.

If after proper investigation it is decided that the employee has committed an act of gross misconduct or if the act is admitted by the employee, s/he will be dismissed without further warning, unless there are mitigating circumstances. The disciplinary procedure must be followed in all cases. The list of examples below is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

- 1.1 Dishonesty associated with place of work or job being undertaken.
 - (a) Theft of property belonging to the Academy, contractor, an employee or pupil, or member of the public.
 - (b) Deliberate falsification of timesheets or expenses claims for pecuniary advantage.
 - (c) Demanding or accepting monies or other considerations as a bribe for the use of Academy property, provision of Academy service or the showing of favour on behalf of the Academy.

- (d) Falsification of any information given on an application form for a post to gain advantage whether pecuniary or otherwise.
 - (e) Failure to disclose criminal convictions, cautions, bindovers or warnings.
 - (f) Falsification of registration of pupils or students for pecuniary gain.
- 1.2 Deliberate refusal to carry out a reasonable, lawful and safe instruction or the normal agreed defined duties of the post.
 - 1.3 Gross negligence in failing to attend to or carry out the agreed duties of the post.
 - 1.4 Wilfully ignoring responsibilities/instructions thus placing other employees/pupils or students in danger, e.g. ignoring handling instructions/safety regulations in respect of chemicals, machinery, equipment, food.
 - 1.5 Being unfit to perform duties associated with the post as a result of taking drugs, other than in accordance with medical advice, or taking alcohol.
 - 1.6 Wilful unauthorised disclosure of information (classified as confidential), by employees who, in the course of their duties, have access to such information which, by its release, could be harmful to pupils/students, other employees, governors or the reputation of the Academy. This does not prevent the proper use of the Whistleblowing Policy.
 - 1.7 Acts of violence or vandalism in the course of employment.
 - (a) Malicious damage to Academy/contractor/other employees/pupils'/students' property.
 - (b) Physical violence towards pupils/students, staff/governors/parents/volunteers/ members of the public.
 - 1.8 Sexual misconduct at work.
 - (a) Sexual misconduct whether criminal or not.
 - (b) Sexual behaviour towards or improper relations with students.
 - 1.9 Off-duty misconduct.
 - (a) An act of criminal sexual misconduct by an employee.
 - (b) Drug offences committed by employees whose job brings them into contact with young people.
 - (c) Sexual behaviour towards or relations with students, or young persons.
 - (d) Any action resulting in a criminal record that would bar the employee under DBS.
 - 1.10 Misuse of the internet or email or phone facilities of the Academy.
 - (a) Using the internet to access unseemly or sexually explicit material.
 - (b) Using email for communicating unseemly or sexually explicit material
 - (c) Using phones for communicating unseemly or sexually explicit material
 - (d) Any other failure to abide by the Trust's e-safety and acceptable use of ICT policy

2. Misconduct

Misconduct would not normally warrant immediate suspension from duty for a first offence but could nevertheless lead to dismissal if persistent. The disciplinary procedure must be followed when dealing with misconduct. Some more serious acts of misconduct might justify omitting the first stage of disciplinary procedures by issuing a final warning in the first instance, if there is no satisfactory explanation. Only when it can be shown that the warnings have not been heeded will misconduct lead to action being taken which will lead to an employee's dismissal. The list of examples below is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

2.1 Absenteeism and lateness, for example:

- (a) failure to remain at the place of work during normal working hours without permission or sufficient cause for absence;
- (b) frequent failure to attend work punctually;
- (c) failure to comply with the sickness absence reporting procedure;

2.2 Dishonesty - petty wrongs, for example:

- (a) making unauthorised private telephone calls and/or sending personal mail at the Academy's expense;
- (b) failure to report any loss and/or damage to any property issued to or by the employee in connection with his/her employment.
- (c) using the Academy's telephone, computer, fax, email or internet for unauthorised personal purposes.

2.3 Neglect of duty, for example:

- (a) failure to adopt safe working practices/use protective equipment where required by law or management;
- (b) negligent use of Academy property in such a way as is likely to cause serious damage or loss;
- (c) failure to discharge without sufficient cause the obligations which statute or the contract of employment places on the employee
- (d) insubordination;
- (e) failure to exercise proper control or supervision of pupils or students.

2.4 Abusive behaviour/offensive language which arises directly out of or in connection with work and which is directed at pupils, colleagues, governors, contractors, volunteers or members of the public.

2.5 Bullying, harassment or victimisation of pupils/students, other employees, volunteers, governors or contractors in the course of duty.

- 2.6 Unlawful discrimination against pupils/students, other employees, volunteers, governors or contractors in the course of duty.
- 2.7 Discrimination, whether unlawful or not, in the course of duty against pupils/students, other employees, volunteers, governors or contractors on the grounds of age, sex, marital or civil partnership status, race, disability or sexual orientation, gender reassignment, pregnancy or maternity, religion, faith or belief.
- 2.8 Undertaking additional employment outside normal working hours which has not been previously agreed and would be detrimental to the work to be performed as a full time employee of the Trust.

B) Disciplinary procedure relating to misconduct (Headteacher only)

1. Definitions

- 1.1 The term “Headteacher” also refers to any other title used to identify the Headteacher where appropriate.
- 1.2 The term “Line Manager” refers to the person delegated by the DNEAT Board to oversee the Performance Management of the Headteacher. This may be a DNEAT Trustee, DNEAT officer or the Chair of Governors of the Local Governing Body.
- 1.3 The “Staff Dismissal Committee” will be comprised of DNEAT Trustees unless this function is delegated to the Local Governing Body and shall consist of 3 Trustees / governors, (except in circumstances provided for in the Secretary of State’s guidance on the Staffing Regulations), none of whom will have had previous involvement in the case.
- 1.4 “Misconduct” is defined in the Disciplinary Rules which accompany this procedure.

2. Management instruction

- 2.1 Misconduct is defined in the Disciplinary Rules, to which reference should be made. The following procedure does not relate to informal oral warnings, which might be given to the Headteacher by the Line Manager. The line manager will only issue a Management Instruction if it is deemed appropriate having carried out an investigation. However, repeated misconduct after a Management Instruction would normally lead to more serious disciplinary action in accordance with the procedure.
- 2.2 There is no appeal against a Management Instruction. The Management Instruction will be confirmed in a written memorandum. The Headteacher may make written comment on the memorandum if s/he has any objection to the issuing of a Management Instruction. Should the Headteacher deem the Management Instruction has been issued inappropriately they could consider the use of the internal Grievance Procedure.

3. First Written Warning

- 3.1 If the Line Manager, having carried out appropriate investigation, considers on the facts that formal disciplinary action for misconduct is necessary, s/he will write to the Headteacher to inform him/her, at least five working days in advance, setting out:
 - a) the date, time and place of the disciplinary hearing.
 - b) the nature of the complaint.
 - c) the Headteacher’s right to be accompanied by his/her representative of an independent trade union or a workplace colleague.
 - d) the titles of enclosed copies of any documents to be used as evidence.
 - e) the names of any witnesses to be called by the Line Manager.
 - f) his/her right to call witnesses on his/her behalf.
 - g) The name and office of any adviser who will accompany the Line Manager at the hearing.

(At the Headteacher's request, an extra copy of this notice, together with any enclosures, should be provided for his/her representative).

- 3.2 If, following the investigations and professional advice, the Line Manager considers that the facts of the case amount to a prima facie case of gross misconduct the matter will be referred to the Staff Dismissal Committee.
- 3.3 At the disciplinary hearing before the Line Manager and his/her adviser, the Headteacher (and his/her representative) will be given a reasonable opportunity to state his/her case and to question the Line Manager and any witnesses. At the conclusion, following an adjournment for consideration of the facts, the Line Manager will state his/her decision and his/her reasons and will soon afterwards confirm them in writing to the Headteacher and his/her representative.
- 3.4 If the Line Manager decides the complaint was justified, s/he may give the Headteacher a first written warning which will include a statement that any further complaint of misconduct occurring within the next twelve months and found justified after a disciplinary hearing, will lead to a final warning, unless there are mitigating circumstances.
- 3.5 If the Headteacher is given no further written warning of misconduct within twelve months of the date of the first written warning, then this warning is disregarded and the warning letter will make this clear.

4. Final Written Warning

- 4.1 If a further complaint is made about the Headteacher's conduct within twelve months of the date of the first written warning, the same procedure (as in **3** above) will be followed.
- 4.2 If the Line Manager decides at the conclusion of the disciplinary hearing that this further complaint is justified, s/he may give the Headteacher a final written warning, which will include a statement that any further complaint of misconduct occurring within the next twelve months and found justified after a disciplinary hearing, will lead to dismissal, unless there are mitigating circumstances.
- 4.3 Again this final warning, together with any previous warning, will be disregarded if there is no further complaint about misconduct within twelve months of the date of the final warning, and the warning letter will make this clear.

5. Dismissal

- 5.1 If a further complaint is received within twelve months from the date of the final warning, the complaint will be referred to a hearing before the Staff Dismissal Committee, following a similar procedure to that in paragraphs 3 above. The Staff Dismissal Committee shall have an adviser appointed for that purpose by the DNEAT Board.
- 5.2 If the Staff Dismissal Committee decides the complaint is justified, it may decide to dismiss the Headteacher. The Staff Dismissal Committee will state its decision and its reasons and inform the Headteacher of his/her right to appeal to the Appeals Committee of the Trust. The Staff Dismissal Committee will soon afterwards confirm the decision and right of appeal in writing to the Headteacher (and his/her representative). The Staff Dismissal Committee will record the outcome of its considerations and the names of persons present at the hearing.

- 5.3 The Trust Board will notify the Headteacher in writing of the decision to dismiss, whether the decision was with notice, or with pay in lieu of notice. The written notice of dismissal to the Headteacher shall include notifying him/her of the right of appeal.

6. Gross Misconduct

- 6.1 If the complaint is considered so serious that it may amount to gross misconduct, justifying dismissal without previous warning and without notice (see the Disciplinary Rules), the Headteacher will be informed by the Line Manager that s/he is suspended on full pay pending further investigation of the complaint before the Staff Dismissal Committee which, if it considers the complaint constitutes gross misconduct, may decide to dismiss the employee. The procedure to be followed will be as in paragraph 5 above.
- 6.2 Where a suspension has taken place that suspension may only be lifted by the Chair of DNEAT Board acting on behalf of the Board, or by the Staff Dismissal Committee or the Appeals Committee referred to in 7 3. Suspension is widely expected to be a neutral act to enable investigation into alleged misconduct or to avoid possible harm to colleagues / students rather than a sanction.

7. Right of Appeal

- 7.1 The Headteacher has a right of appeal against a written warning issued by a Line Manager. The appeal will be heard by the Disciplinary Panel of Trustees. The number of Trustees on the Disciplinary Panel will not be less than two. The panel shall be advised by a person engaged for the purpose by the DNEAT Board. The panel can either confirm the warning, reduce a final warning to a warning or cancel the warning.
- 7.2 Appeals against formal warnings by the Line Manager should be made in writing to the Clerk to the Trust Board within 5 working days of the receipt of the written decision.
- 7.3 The Headteacher has a right of appeal against a decision to issue a warning or to dismiss by Staff Dismissal Committee . An appeal against a warning by the Staff Dismissal Committee will be to the Disciplinary Panel of Trustees referred to in paragraph 7.1 above.
- 7.4 An appeal against dismissal will be to the Appeal Committee of the Trustees, which shall have a membership of not less than 3 Trustees / governors, none of whom shall have any previous involvement in the case. The Appeal Committee shall be advised in its deliberations by an adviser appointed for that purpose by the DNEAT Board.
- 7.5 Appeals against decisions by the Staff Dismissal Committee should be made in writing to the Clerk to the Trust Board within 5 working days of the receipt of the written decision.
- 7.6 All appeal hearings will be held as soon as possible after receipt of the appeal.

8. Variation in Sanctions

- 8.1 The Line Manager or the Disciplinary Panel of Trustees may decide to give a Management Instruction instead of a written warning, or a written warning instead of a final written warning.
- 8.2 The Line Manager may decide that the misconduct is so serious that it justifies a first and final written warning.
- 8.3 The Line Manager may decide to issue a further final warning rather than refer the complaint to the Staff Dismissal Committee.
- 8.4 The Staff Dismissal Committee may decide to issue a warning or final warning rather than dismiss.
- 8.5 When considering dismissal the Appeal Committee may decide to issue a warning or a final warning rather than dismiss, and that any such warning may last for a specified period longer than twelve months, if appropriate. *There is no right of appeal against such a decision of the Appeal Committee of the Trustees.*
- 8.6 In the event that the Appeal Committee of the Trustees decides not to uphold the Staff Dismissal Committee's decision to dismiss, the notice of dismissal shall be immediately withdrawn.

9. Trade Union Officials

- 9.1 Although normal disciplinary standards must apply to the conduct of a trade union official as an employee, no formal disciplinary action beyond a Management Instruction should be taken until the circumstances of the case have been discussed with the relevant full time trade union officer.

10. Confidentiality

- 10.1 The proceedings under this disciplinary procedure shall remain confidential to the parties concerned unless there is recourse to legal action or there is police or LADO involvement. Only the decision of a disciplinary hearing may be reported and this will be to relevant parties on a need to know basis.

C). Disciplinary procedure relating to misconduct (all staff except Headteacher / Principal)

1. Definitions

- 1.1 The term “Headteacher” also refers to any other title used to identify the Headteacher where appropriate.
- 1.2 The term “employee” refers to any member of the staff, whether teaching or not (with the exception of the Headteacher), employed to work solely at the school.
- 1.3 The term “senior manager” refers to any member of the Senior Management Team, delegated by the Headteacher to deal with a disciplinary matter under these procedures. A senior manager may only make a decision to issue a warning up to and including a final written warning.
- 1.4 If the Headteacher, following consultation with the Chair of Governors, considers that there is no senior manager to whom s/he can reasonably delegate a specific disciplinary matter then the Headteacher will take the role of the senior manager for that specific case and the role of the “Headteacher” under this procedure will be performed by a “Staff Dismissal Committee” of the Local Governing Body consisting of not less than 3 governors, none of whom will have had previous involvement in the case.
- 1.5 “Misconduct” is defined in the Disciplinary Rules which accompany this Procedure.

2. Management Instructions

- 2.1 The following procedure (section 3) does not relate to informal Management Instructions, which might be given to the employee by a member of the senior manager team. The senior manager will only issue a Management Instruction if it is deemed appropriate having carried out an investigation. Repeated misconduct after a Management Instruction would normally lead to more serious disciplinary action in accordance with the procedure.
- 2.2 There is no appeal against a Management Instruction. The Management Instruction will be confirmed in a written memorandum. The employee may make written comment on the memorandum if s/he has any objection to the issuing of a Management Instruction. Should the employee deem the Management Instruction has been issued inappropriately they could consider the use of the internal Grievance Procedure.

3. First Written Warning

- 3.1 If the senior manager, having carried out appropriate investigation, considers on the facts that formal disciplinary action for misconduct is necessary, s/he will write to the employee to inform him/her, at least five working days in advance, setting out:
 - a) the date, time and place of the disciplinary hearing.
 - b) the nature of the complaint.
 - c) the employee’s right to be accompanied by a representative of his/her trade union or a workplace colleague.
 - d) the titles of enclosed copies of any documents to be used as evidence.
 - e) the names of any witnesses to be called by the senior manager.
 - f) his/her right to call witnesses on his/her behalf.

g) The name and office of any adviser who will accompany the senior manager at the hearing.

(At the employee's request, an extra copy of this notice, together with any enclosures, should be provided for his/her representative).

- 3.2 If, following the investigations and professional advice, the senior manager considers that the facts of the case amount to a prima facie case of gross misconduct the matter will be referred to the Headteacher.
- 3.3 At the disciplinary hearing before the senior manager and his/her adviser, the employee (and his/her representative) will be given a reasonable opportunity to state his/her case and to question the senior manager and any witnesses. At the conclusion, following an adjournment for consideration of the facts, the senior manager will state his/her decision and his/her reasons and will soon afterwards confirm them in writing to the employee and his/her representative.
- 3.4 If the senior manager decides the complaint was justified, s/he may give the employee a first written warning which will include a statement that any further complaint of misconduct occurring within the next twelve months and found justified after a disciplinary hearing, will lead to a final warning, unless there are mitigating circumstances.
- 3.5 If the employee is given no further written warning of misconduct within twelve months of the date of the first written warning, then this warning is disregarded and the warning letter will make this clear.

4. Final Written Warning

- 4.1 If a further complaint is made about the employee's conduct within twelve months of the date of the first written warning, the same procedure (as in **3** above) will be followed.
- 4.2 If the senior manager decides at the conclusion of the disciplinary hearing that this further complaint is justified, s/he may give the employee a final written warning, which will include a statement that any further complaint of misconduct occurring within the next twelve months and found justified after a disciplinary hearing, will lead to dismissal, unless there are mitigating circumstances.
- 4.3 Again, this final warning, together with any previous warning, will be disregarded if there is no further complaint about misconduct within twelve months of the date of the final warning, and the warning letter will make this clear.

5. Dismissal

- 5.1 If a further complaint is received within twelve months from the date of the final warning, the complaint will be referred to a hearing before the Headteacher, following a similar procedure to that in paragraphs **3** above. The Headteacher shall be accompanied by an HR adviser from DNEAT's HR provider.
- 5.2 If the Headteacher decides the complaint is justified, s/he may decide to dismiss the employee. The Headteacher will state his/her decision and his/her reasons and inform the employee of his/her right to appeal to the Appeals Committee of the Local Governing Body. S/he will soon afterwards confirm the decision and right of appeal in writing to the employee (and his/her representative). The Headteacher

will record the outcome of his/her considerations and the names of persons present at the hearing.

- 5.3 The school will give notice in writing to the employee that s/he is dismissed, whether the decision was with or without notice, or with pay in lieu of notice and the effective date of dismissal.

6. Gross Misconduct

- 6.1 If the complaint is considered so serious that it may amount to gross misconduct, justifying dismissal without previous warning and without notice (see the Disciplinary Rules), the employee will be informed by the Headteacher that s/he is suspended on full pay pending further investigation of the complaint before the Headteacher, who, if s/he considers the complaint constitutes gross misconduct, may decide to dismiss the employee. The procedure to be followed will be as in paragraph 5 above.
- 6.2 Where a suspension has taken place that suspension may only be lifted by the Chair of Governors acting on behalf of the Local Governing Body, or by the Appeals Committee referred to in 7.3, or the Staff Dismissal Committee in the circumstances identified in 1.4 of these procedures. Suspension is widely expected to be a **neutral act** to enable investigation into alleged misconduct or to avoid possible harm to colleagues/students rather than a sanction.

7. Right of Appeal

- 7.1 The employee has a right of appeal against a written warning issued by a senior manager. The appeal will be heard by the Disciplinary Panel of Governors. The number of governors on the Disciplinary Panel of Governors will not be less than two. The panel shall be advised by a person engaged for the purpose by the Local Governing Body. The panel can either confirm the warning, reduce a final warning to a warning or cancel the warning.
- 7.2 Appeals against formal warnings by the senior manager should be made in writing to the Clerk to the Governors within 5 working days of the receipt of the written decision.
- 7.3 The employee has a right of appeal against a decision to issue a warning or to dismiss by Headteacher (see paragraph 5). An appeal against a warning by the Headteacher will be to the Disciplinary Panel of Governors referred to in paragraph 7.1 above.
An appeal against dismissal will be to the Appeal Committee of the Governors, which shall have a membership of not less than 3 governors, none of whom shall have any previous involvement in the case. The Appeal Committee shall be accompanied by an HR adviser from DNEAT's HR provider.
- 7.4 Appeals against decisions by the Headteacher should be made in writing to the Clerk to the Governors within 5 working days of the receipt of the written decision.
- 7.5 All appeal hearings will be held as soon as possible after receipt of the appeal.

8. Variation in Sanctions

- 8.1 The senior manager or the Disciplinary Panel of Governors may decide to give a Management Instruction instead of a written warning, or a written warning instead of a final written warning.
- 8.2 The senior manager may decide that the misconduct is so serious that it justifies a first and final written warning.
- 8.3 The senior manager may decide to issue a further final warning rather than refer the complaint to the Headteacher.
- 8.4 The Headteacher may decide to issue a warning or final warning rather than dismiss.
- 8.5 When considering a dismissal the Appeal Committee may decide to issue a warning or a final warning rather than dismiss, and that any such warning may last for a specified period longer than twelve months, if appropriate. *There is no right of appeal against such a decision of the Appeal Committee of the Governors.*
- 8.6 In the event that the Appeal Committee decides not to uphold the Headteacher's decision to dismiss, the notice of dismissal shall be immediately withdrawn.

9. Trade Union Officials

- 9.1 Although normal disciplinary standards must apply to the conduct of a trade union official as an employee, no formal disciplinary action beyond a Management Instruction should be taken until the circumstances of the case have been discussed with the relevant full time trade union officer.

10. Confidentiality

- 10.1 The proceedings under this disciplinary procedure shall remain confidential to the parties concerned unless there is recourse to legal action or there is police or LADO involvement. Only the decision of a disciplinary hearing may be reported and this will be to relevant parties on a need to know basis.