



Southend East Community Academy Trust

“Strong Partnerships, Strong Community, Strong Schools”

Disciplinary & Dismissals Policy

1st September 2016

Status : Statutory
Next revision due : September 2018
Reviewed and recommended by : Trustees
Signed by Chair :



THIS POLICY APPLIES TO ALL SECAT EMPLOYEES

Disciplinary Procedure

1. Introduction

Southend East Community Academy Trust (SECAT) is under a legal obligation to have in place a Disciplinary Procedure and to ensure that certain stages are followed throughout the procedure. The ACAS Code of Practice on disciplinary and grievance procedures provides basic guidance for employers, employees and their representatives and sets out principles for handling disciplinary and grievance situations in the workplace. As well as ensuring that there is a set process to follow leading to dismissal or disciplinary action, there is also the right for employees to appeal against the decision reached.

The Code sets out the process for disciplinary matters, which is to:

1. establish the facts of each case
2. inform the employee of the problem
3. hold a meeting with the employee
4. at the meeting, allow the employee to be accompanied
5. decide on the appropriate action
6. provide the employee with the opportunity to appeal.

This Disciplinary Procedure has been adopted by SECAT and aims to ensure any workplace disciplinary situation is dealt with in a fair and consistent manner.

2. Purpose

This procedure should be used as a tool to enable the management of SECAT Academies to effectively deal with any disciplinary situation. By following the procedure both employees and managers should be fully aware of all stages in the process.

The procedure clarifies responsibilities for anyone involved in a Disciplinary process. This includes the individual, manager, investigating officer and hearing officer.

It is important to note that SECAT is not a court of law. Any Hearing outcomes are based on the balance of probabilities and do not follow the legal rule of "beyond all reasonable doubt".

3. Application

The Disciplinary Procedure covers all employees of SECAT including the Headteachers of all the Academies. Where the procedure involves an Headteacher, the Local Governing Body of the relevant Academy will lead and take responsibility for the process.

If a member of staff is also a recognised official of a trade union no action under the Disciplinary Procedure must take place until the circumstances of the case have been discussed with a full time official of the union concerned. The relevant HR Services provider must be consulted in all such cases.

Where an employee is employed under more than one contract of employment with SECAT, it should be noted that an act of Gross Misconduct which could result in dismissal may similarly influence all of the contracts of employment.

4. Informal procedure

Employees should be aware of the standards required from them in the course of their normal day-to-day duties and the possible consequences of any failure to maintain these standards.

Headteachers/Line managers should provide feedback and guidance to their employees about their conduct or performance regularly on both an informal and formal basis. This may be through daily contact or one to one discussions. These discussions should be ongoing to address any problem areas and to ensure that employees know what is expected of them in terms of conduct. In the majority of cases these ongoing discussions will assist in ensuring there is no need for more formal action. In many cases a quiet word is often all that is required to resolve an issue rather than a more formal meeting.

Where the Headteachers/Line manager has concerns about an employee's conduct which does not warrant following the formal procedure they should arrange an informal but private meeting. This meeting should be a discussion with the objective of encouraging and assisting an employee to improve and should not become a disciplinary hearing. Employees do not have a right to be accompanied at these meetings or have a right of appeal. Where improvement is required the Headteacher/Line manager must ensure the employee understands what needs to be done, how their conduct will be reviewed and over what period. It is useful to confirm in writing what has been decided.

Brief notes should be kept of any agreed informal action for reference purposes and there should be reviews of progress over specified periods. The employee and the Headteacher/Line manager should agree the content of the notes and each retain a copy. If there is any disagreement regarding the content of the notes this should be recorded by either party. The notes should be kept by the Headteacher/Line manager for a reasonable period of time.

Headteachers/Line managers should ensure that any informal action does not turn into formal disciplinary action as this may unintentionally deny the employee certain rights e.g. the right to be accompanied. If during the discussion it becomes obvious that the matter may be more serious, the meeting should be adjourned and the employee should be told that the matter will be continued under the formal disciplinary procedure.

5. Formal procedure

Where an employee's conduct is more serious, then the formal procedure will be considered. Very serious conduct may be considered as Gross Misconduct, which is defined as misconduct of such a serious nature that SECAT is justified in no longer tolerating the employee's continued presence at their place of work. An allegation of gross misconduct will normally lead to suspension, pending an investigation. Instances of gross misconduct can lead to summary dismissal (i.e. dismissal without notice) where the allegations are substantiated.

The following list provides examples of misconduct, which will normally be regarded as gross misconduct: -

- Sexual Offences
- Failure to act in accordance with Children and Young People Safeguarding requirements or good practice expectations
- Breaches of SECAT's Equal Opportunities and/or Dignity at Work policies, including serious acts of harassment, bullying, discrimination or verbal abuse against employees, clients or members of the public on grounds of gender, gender identity, race, disability, age, religion/faith, sexual orientation or any other grounds
- Deliberate misuse of data protection information and/or deliberate interference with computerised information
- Falsification of qualifications which are stated requirements of employment and/or which result in financial gain
- Serious breaches of SECAT's policy on use/misuse of the internet including deliberately accessing internet sites containing pornographic, offensive or obscene material
- Serious breaches of SECAT's Code of Conduct
- Failure to disclose any relevant criminal offences prior to employment and any criminal convictions/cautions which occur during employment
- Receipt of a conviction or caution which could bring SECAT into disrepute and/or seriously undermine trust and confidence in the employee
- Theft, fraud or deliberate falsification of records
- Fighting or assault on another person
- Deliberate damage to school or other property
- Being under the influence of alcohol or illegal drugs in work hours and/or on school premises
- Negligence which causes unacceptable loss, damage or injury
- Failure to comply with a reasonable order, instruction or contractual requirement
- Unauthorised entry to computer records
- A serious breach of health and safety rules
- A serious breach of trust and confidence
- Misconduct, whether committed in or outside work which is likely to damage public confidence in SECAT and/or the employee
- Failure to comply with work permit or required qualifications/professional registration requirements
- Posting information relating to work on an online forum or social network site that could have a detrimental impact on employees, or which could bring members of SECAT into disrepute

The above list is neither exclusive nor exhaustive and there may be actions which do not appear above but may nevertheless result in dismissal without notice.

Careful consideration will be given in each case. What is regarded as misconduct in some cases may, in others, depending on the circumstances, be regarded as gross misconduct.

Any previous sanctions which are still current may be taken into account when deciding on the outcome of the hearing.

6. Combined hearings

Employees should be aware that where other issues are also involved e.g. capability and/or sickness and/or absence they may be invited to a hearing under SECAT's Dismissal Procedures where all the issues may be dealt with in the same hearing.

7. Right to be accompanied

When a meeting is called under the formal procedure, employees have a statutory right to be accompanied by a trade union official or some other person of the employee's choice. If the representative is a Solicitor or Barrister then they will not act in a legal capacity.

Any representative will be required to respect the confidentiality of information regarding other employees, pupils, pupils' families, other service users or commercially sensitive matters which they may become aware of in this role.

SECAT recognises a number of Trade Unions and will work with them where a member is subject to this disciplinary procedure.

8. Responsibilities

Individual Employees

Employees must ensure that they are aware of their responsibilities with regard to conduct and work performance and the likely consequence of failure to meet these obligations.

Employees must also ensure that they familiarise themselves with general rules and procedures referred to in their conditions of service, and also to specific working rules and procedures relating to their area of work.

Where employees are subject to this procedure it is their responsibility to attend any meeting called and/or to arrange representation and to advise of this within specified timescales.

Employees must be aware that if they are charged with or convicted of a criminal offence not related to work this will always result in an investigation and may result in the Disciplinary procedure being invoked, depending on whether the offence may make the employee unsuitable for continued employment. It may also be initiated and

come to a conclusion before any external proceedings are completed or where it is decided not to proceed with legal action.

Headteachers/Line managers

It is the Headteacher's or, where this is delegated within SECAT Academies, Line manager's responsibility to ensure their staff are aware of general rules, procedures, guidelines and standards with which they are expected to comply. It is also their responsibility to identify where employees actions and/or conduct are unacceptable and take appropriate action. Where these matters are serious and/or cannot be appropriately dealt with through close supervision or other means then the provisions of this procedure should be applied.

The decision as to whether to suspend and/or a formal Disciplinary investigation takes place rests with the Headteacher or Chair of Governors of the relevant Academy, in consultation with their human resources service provider. The Headteacher or Chair of Governors must appoint an Investigating Officer and ensure that a full investigation takes place following consultation with their human resources service provider.

If the concerns relate to financial matters SECAT's Chief Financial Officer should be advised and they will consider whether they should investigate, whether the Police should be notified, or whether it should be referred back for consideration under the Disciplinary procedure.

Headteachers/Managers must have particular regard to their responsibilities in respect of safeguarding children and young people and, where applicable, vulnerable adults. If their concerns relate to such issues in respect of action and/or conduct of a member of staff, they must notify the Local Authority Designated Officer (LADO) in respect of children and young people, or Safeguarding Vulnerable Adults Manager (SVAM) in respect of vulnerable adults, **immediately**.

There may be potential disciplinary situations where information is gathered prior to a formal investigation under the Disciplinary Procedure. Headteachers/Managers must refer to the Regulation of Investigatory Powers Act 2000 Guidance.

Headteachers/Managers may learn of potential disciplinary matters by a third party outside of the organisation such as media stories or police, especially relating to incidents outside of work. These should be considered under the provision of the Disciplinary Policy.

Once the Headteacher or Chair of Governors is presented with the Investigating Officer's report and recommendations it is their responsibility to decide whether to accept the recommendations made. This could be proceeding to a formal Disciplinary Hearing, informal guidance or no further action.

Whichever decision is reached, the Headteacher/Manager of the relevant Academy must ensure that the employee receives written notification of the outcome. An appropriate letter will be drafted in consultation with the human resources service provider.

If it is decided to proceed to a Formal Disciplinary Hearing the SECAT Academy will have responsibility for convening the Hearing and ensuring appropriate papers are copied and distributed in advance to all attending the hearing, in consultation with their human resources service provider.

Investigating Officer

The investigating officer should normally be the person who would subsequently present the case against the employee at the Hearing (the “presenting officer”) if it is established that there is a case to answer. Under no circumstances should the preliminary investigation be conducted by the officer who would hear and decide upon the case at any subsequent disciplinary hearing. The Investigating Officer should have had no prior involvement in the case.

The Investigating Officer should invite the employee to an investigatory meeting and also inform them of their right to be accompanied. The Investigating Officer must produce a report and make recommendations based upon their findings and present this to the relevant Headteacher or Chair of Governors who will decide whether a Disciplinary Hearing will be convened. The human resources service provider can provide guidance on investigation and report formats.

Human Resources service provider

The human resources service provider is responsible for providing advice throughout the procedure. The human resources service provider will ensure that there is an appropriately experienced Officer to advise the Investigating Officer. A different Officer will advise the Hearing Officer / panel and a further different Officer will advise any Appeal Panel, ensuring appropriate advice and good practice.

Hearing Officer

For the purposes of this Policy and Procedures the term “Hearing Officer” refers to the relevant Headteacher or the appropriate Governing Body Panel who will consider the case at the formal hearing. In order to ensure impartiality they must not have been involved in the case previously. Where the Headteacher is themselves the subject of the Hearing then the Hearing Officer shall be the appropriate Governing Body Panel. The Hearing Officer is responsible for making a decision as to whether the allegations against the employee are substantiated on the balance of probabilities, and to then take appropriate action. The Hearing Officer will be advised by a human resources service provider representative who has not been involved in the case previously.

In reaching a decision on the action to be taken the Hearing Officer should consider the following:

- Whether the Disciplinary procedure has been followed
- The credibility of evidence presented and heard
- Whether the allegation(s) have been substantiated on the balance of probabilities
- The type, degree, and frequency of the misconduct and consequences arising from it

- Any mitigating circumstances which may reduce the severity of the penalty
- Guidance within the Disciplinary Procedure which may indicate what the likely penalty will be as a result of the particular misconduct
- The penalty imposed in similar cases in the past
- The employee's disciplinary record
- What penalty is reasonable in view of all the circumstances

The Hearing Officer will, if possible, inform the employee at the end of the hearing of the decision s/he has reached. Alternatively, the decision may be given in writing but it must be confirmed or informed in writing within 5 working days of the date of the hearing. The letter will set out the decision, any penalty that is to be incurred and, whenever sanctions are applied as a result of the Hearing Officer's decision, the employee's right to appeal against this decision.

If an appeal is lodged the case will be heard by a panel of the Appeals Committee of the relevant Local Governing Body, different from the panel of the original hearing if that was conducted by a Local Governing Body panel. The Appeal panel will be advised by a human resources service provider representative who has not have been involved in the case previously.

Witnesses and Evidence

All staff of SECAT must cooperate and assist in an authorised Disciplinary Investigation if requested to do so by the Investigating Officer, subject to any legal or statutory restrictions.

Witnesses who are employees of SECAT will be expected to attend to give evidence at the formal hearing if requested by the presenting officer or the Hearing. In the interests of natural justice they are asked to attend if requested by the employee or their representative.

The Investigating Officer may decide to interview or obtain evidence from persons who are not employees of SECAT. Particular care and sensitivity must be shown if pupils are to be interviewed and specific advice is set out in separate guidance. It will not normally be the practice to call witnesses unless they are employees of SECAT or representatives of other organisations.

Legal Section

In the event of an employee making a claim to an employment tribunal, SECAT Academies should seek legal advice through their legal services provider. Headteachers/Managers will be required to provide information and they and other staff may be called as witnesses at the tribunal. A human resources service provider representative will also be involved in the process. As outlined in The Education Order 2003 any application to an employment tribunal must be made against the Local Governing Body as if it were the employer.

9. Investigations

Each case must be carefully investigated before any action is taken. Therefore, the investigating officer must: -

- Make all reasonable efforts to gather all relevant facts by acting promptly, taking statements and collecting documents. Where an information gathering interview is held with the employee who is the subject of the allegation(s), the employee should have the opportunity to be accompanied.
- Form a clear view about the complaint or incident and decide whether they will recommend that formal disciplinary action is appropriate. It may be that informal action is recommended or no action at all.

The employee may be suspended by the decision of a Headteacher or Chair of Governors prior to or, where further information becomes available, during the investigation.

The employee must be made aware of an investigation as soon as is practicable. If it is subsequently shown that there is no case to answer, he/she must be informed in writing. In this event all relevant papers will be removed from the employee's personal file and any suspension shall cease. Where there are other concerns identified during the period of the investigation over and above those originally identified, then the Investigating Officer will also investigate those additional concerns if directed to do so by the relevant Headteacher or Chair of Governors who assigned them to investigate the original concerns, and the employee will be told of this as soon as is practicable.

The Investigating Officer will submit their report to the relevant Headteacher or Chair of Governors who will decide whether the allegations should be submitted for consideration at a Disciplinary Hearing. If the case is to go to a hearing then a briefing pack will be prepared by the Investigating Officer who will present the case.

10. Disciplinary Hearing

The employee must be sent a letter with the details of the hearing enclosing a copy of the briefing pack to be considered by the panel, not less than 10 working days before the date of the hearing, by SECAT in consultation with a human resources service provider representative.

The human resources service provider will, where possible, copy the invite letter to a hearing to the Trade Union representative if it is clearly known that the employee is to be represented at the Hearing. The employee and the person accompanying them are obliged to make every effort to attend the meeting.

Not later than 5 working days before the date of the hearing the employee must supply the name and status of any representative to the officer specified in the letter, as well as the names and status of any witnesses. In addition they must supply copies of documents to be presented in support of their case.

The hearing will be conducted in accordance with the procedure described in **Appendix 1**.

Either side may request the postponement of a disciplinary hearing. It is for the Hearing Officer to decide upon such requests, balancing the principles of natural justice with the desire to carry out the process in the shortest possible time. Where the employee is persistently unable or unwilling to attend a disciplinary meeting without good cause, the Hearing Officer will make a decision on the evidence available. If the employee does not attend the hearing their representative may attend on their behalf. In the event of a refusal to postpone the hearing the Hearing Officer will provide the employee with written reasons for the refusal.

Where the disciplinary hearing is postponed due to the employees' sickness, the employee must provide a doctors certificate in respect of this.

A list of disciplinary sanctions and examples of actions which may warrant these sanctions is attached in **Appendix 2**.

The decision reached at the Disciplinary Hearing will be informed or confirmed in writing to the employee within 5 working days of the date of the hearing, including the reasons for reaching this decision and the right of appeal against any sanctions. The appropriate letter will be drafted by the human resources service provider representative who has advised the Hearing Officer.

11. Dismissals

Where the decision of the Hearing Officer is to dismiss summarily without notice then the employee's last day of service and of pay will be the date of the hearing if the employee is recalled to hear the outcome, or the date of the letter informing the employee of the outcome if they are not informed in person on the day or (see below) where the relevant SECAT Academy write to issue the appropriate notification of dismissal to the employee. Where the decision is to dismiss with notice then the employee will be paid for the appropriate notice period and their last day of service will be the end of the notice period, although it may be that they not be assigned duties during the notice period.

12. Appeal Hearing

Any employee who receives a disciplinary sanction as the result of a disciplinary hearing has the right of appeal. They must exercise this right in writing within 10 working days of the date of receipt of the letter confirming the outcome of the hearing.

The purpose of the appeal is to re-hear the original case. New documents or witnesses will only be allowed if they are relevant and in the interests of natural justice. Knowledge of this must be made clear prior to the hearing and the relevant information should be submitted 10 days before the date of the hearing.

A panel of the Local Governing Body will consider the appeal. The Appeal Hearing will be conducted in accordance with the procedure detailed in **Appendix 3**.

There will be no further right of Appeal except where a panel decides at Appeal that there should be a dismissal when a lesser sanction was originally given.

The decision reached at the Appeal Hearing will be confirmed in writing to the employee within 5 working days of the date of the hearing, including the reasons for reaching this decision. The appropriate letter will be drafted by the human resources service provider representative who has advised the panel.

13. Dealing with a grievance raised during a disciplinary case

If an employee raises a grievance in the course of a disciplinary case the Headteacher or Chair of Governors who authorised the investigation should consider whether to postpone the disciplinary procedure for a reasonable period of time to consider whether it will have a bearing on the hearing. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently. Such decisions should be made in consultation with the human resources service provider.

The Disciplinary process is conducted on behalf of SECAT. A grievance, under the formal procedure, cannot therefore be taken against the Headteacher/Chair of Governors who authorised the investigation, the Headteacher/Chair of Governors deciding on suspension (if applicable) or the Investigating Officer for carrying out their duty under the Disciplinary Procedure.

Disciplinary Hearing Procedure

General principles

Investigations should be carried out without unreasonable delay and a disciplinary hearing arranged normally within 30 working days of management deciding there is a case to answer.

The employee will be given at least 10 working days' notice, in writing, of the date, time and place of the disciplinary hearing. When given this notice, the employee will:

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- Be informed of the nature and details of the alleged misconduct
- Be informed of their right to be represented at the hearing and of their right to call witnesses
- Be given the name and status of the designated officer who will be hearing the case, the presenting officer and any witnesses to be called
- Be supplied with a copy of any documentation/witness statements to be considered and the names of any witnesses to be called
- Be supplied with a copy of the disciplinary procedure

If the employee has indicated that they will be represented by a trades union the union will be consulted, where practicable, when setting a date for the hearing.

Not later than 5 working days before the hearing, the employee will:

- Supply the name and status of any representative (if not already known) to the designated officer
- Submit a written statement and any other documentation if he/she wishes, either directly or through a representative
- Submit details of any witnesses to be called

Both the Presenting Officer and the employee should give careful consideration to whom they call as witnesses, limiting the numbers to the minimum necessary to support their case. The Hearing Officer will also have the right to limit the number of witnesses called, as appropriate.

The relevant Headteacher or Local Governing Body Panel will be advised by a representative of the human resources service provider. The manager presenting the case may be accompanied by the HR advisor who has been advising them during the case. The relevant Headteacher or Local Governing Body Panel may adjourn the meeting at any time if they deem this necessary.

Disciplinary Hearing Process

1. The Hearing Officer should introduce all parties, confirm they have all received the appropriate paperwork and explain the purpose of the hearing.
2. The Presenting Officer will present the management case in the presence of the employee and their representative (if any), Hearing Officer and HR Adviser.
3. The other parties may ask questions of the Presenting Officer in the following order: employee and/or representative, Hearing Officer, HR Adviser.
4. The Presenting Officer may then call witnesses who can be questioned in the following order: Presenting Officer, employee and/or representative, Hearing Officer, HR Adviser.
5. The presentation is then reversed, with the employee/representative having the chance to put their case and call witnesses.
6. Questions may be asked on this presentation by the Presenting Officer, followed by the Hearing Officer and the HR Adviser.
7. The employee and/or representative may then call witnesses who can be questioned in the following order: employee and/or representative, Presenting Officer, Hearing Officer, HR Adviser.
8. The Presenting Officer, followed by the employee or his/her representative will have the opportunity to sum up their case if they so wish.
9. Both parties will withdraw, leaving the Hearing Officer to deliberate, accompanied by the HR Adviser. If recall is necessary to clear points of uncertainty both parties will return, notwithstanding that only one may be concerned with the point giving rise to doubt. In addition, the Hearing Officer may require that other witnesses/evidence should be called or produced in order to ensure that all necessary facts are considered before making a decision. The Hearing Officer may decide to adjourn the hearing to allow for this if necessary.

If a decision can be made within a reasonable time of the parties withdrawing, both parties should be recalled and informed of the Hearing Officer's decision. In all cases, and whether or not the decision has been given verbally at the end of the hearing, the employee will be sent a letter, outlining the reasons for the decision, within 5 working days of the hearing, advising of his/her appeal rights against any sanction.

Disciplinary Sanctions

The Hearing Officer or Appeal Panel will consider whether allegation(s) have been substantiated and, if so, having considered the circumstances, may decide to apply a sanction as set out below. Different substantiated allegations from the same disciplinary hearing or appeal hearing may have different sanctions applied.

Oral Warning

Appropriate when there has been a relatively minor matter of misconduct which, with prompt and early action, can be stopped before it becomes a major concern. A letter stating that an oral warning has been given must still be given to the employee concerned and a copy must go on the personal file and may be reviewed after **6 months** satisfactory conduct.

Written Warning

Appropriate when, despite a first oral warning, the misconduct continues or when the offence is more serious. A record will be held on the employee's personal file and may be reviewed after **12 months** satisfactory conduct.

Final Warning

Appropriate *either* as a result of an accumulation of first and further warnings due to repetition of misconduct of a relatively minor kind

Or

due to a major incident which falls short of behaviour justifying dismissal.

A record will be held on the employee's personal file and may be reviewed after **18 months** satisfactory conduct.

Dismissal with Notice

Appropriate when misconduct dealt with under a previous final warning persists and it is considered no longer possible to continue with the individual's employment.

Dismissal without Notice (summary dismissal)

Appropriate course of action with Gross Misconduct, where the employees' behaviour is such that his/her continued presence in the organisation cannot be tolerated under any circumstances.

There may be occasions where the nature of the offence or other relevant circumstances does not make it appropriate for the normal time limit to apply. However, unless the circumstances are exceptional, a warning will not exceed 2 years.

A written or final written warning should set out the nature of the misconduct and the change in behaviour required, with timescales as appropriate. The employee should be informed of the consequences of further misconduct.

Appeal Hearings Procedure

Any employee who receives a disciplinary sanction as the result of a disciplinary hearing has the right of appeal. They must exercise this right in writing within 10 working days of the date of receipt of the letter confirming the outcome of the hearing.

Appeals against termination of contract will be heard by an appropriate Local Governing Body Panel, advised by an HR Adviser. None of these should have prior involvement in the case. The Governor Appeal Panel represents the final stage of SECAT's disciplinary procedure. The appeal will be a re-hearing*.

The appellant shall be given notice, in writing, at least 15 working days in advance of the date, time and place of the hearing, and shall be allowed to be represented by a trade union representative, school employee of his/her choice or by some other person of his/her choice, and shall be allowed to call witnesses and present documentation relevant to his/her defence. The appellant/representative can be accompanied by another person as a note-taker e.g. a local shop steward, at the discretion of the Governor Appeal Panel.

Appeal Hearing Process*

1. The Chair of the Panel should introduce all parties, confirm they have all received the appropriate paperwork, confirm the grounds of appeal with the appellant and their representative (if any) and explain the purpose of the hearing
2. The presenting officer will present the management case in the presence of the appellant and their representative (if any) and the panel.
3. The other parties may ask questions of the presenting officer in the following order: appellant and/or representative, Panel members, HR Adviser.
4. The presenting officer may then call witnesses who can be questioned in the following order: presenting officer, appellant and/or representative, Panel members, HR Adviser.
5. The presentation is then reversed, with the appellant and/or representative having the chance to put their case and call witnesses.
6. Questions may be asked on this presentation by the presenting officer, followed by Panel members and the HR Adviser.
7. The appellant and/or representative may then call witnesses who can be questioned in the following order: appellant and/or representative, presenting officer, Panel members, HR Adviser.
8. The Presenting Officer, followed by the appellant/representative, will have the opportunity to sum up their cases, if they so wish.
9. Both parties will withdraw, leaving the Governor Appeal Panel to deliberate, accompanied by the HR Adviser. If recall is necessary to clear points of uncertainty both parties will return, notwithstanding that only one may be

concerned with the point giving rise to doubt. In addition, the Panel may require that other witnesses/evidence should be called or produced in order to ensure that all necessary facts are considered before making a decision. The Panel may decide to adjourn the hearing to allow for this if necessary.

If a decision can be made within a reasonable time of the parties withdrawing, both parties should be recalled and informed of the Panel's decision. In all cases, and whether or not the decision has been given verbally at the end of the hearing, the employee will be sent a letter, outlining the reasons for the decision, within 5 working days of the Appeal hearing.

**Where the appeal grounds relate solely to the severity of the sanction the employee/representative may, however, present their case first, followed by the Presenting Officer.*

Dismissal Procedure

1. Introduction

SECAT seeks to comply with the ACAS Code of Practice with regard to dismissals. As well as ensuring that there is a set process to follow leading to dismissal, this Dismissal Procedure also sets out the right for employees to appeal against the decision reached.

Dismissal may occur for a number of reasons. For example:

- a) dismissal on grounds of capability
- b) dismissal on grounds of conduct
- c) dismissal by reason of redundancy
- d) not confirming employment under Probation process
- e) not renewing a fixed term contract
- f) Other situations where SECAT considers dismissal would occur

SECAT has separate policies and/or procedures for a), b) c) and d) above which should be consulted before any action is contemplated.

This Dismissal Procedure has been adopted by SECAT for those situations falling under e) and f) above and aims to ensure any dismissal situation is dealt with in a fair and consistent manner.

2. Purpose

This procedure should be used as a tool to enable SECAT Academies to effectively deal with dismissal situations as set out in e) and f) above. By following the procedure employees, the relevant Headteacher and line managers should be fully aware of all stages in the process.

The procedure clarifies responsibilities for anyone involved in a dismissal-process. This includes the individual, the Headteacher, line managers, and Governors.

It is important to note that SECAT is not a court of law. Any Dismissal meeting outcomes are based on the balance of probabilities and do not follow the legal rule of "beyond all reasonable doubt".

3. Application

The Dismissal Procedure covers all employees of SECAT, including the Headteachers and all those staff who are employed on a fixed term contract of any duration. Where the procedure involves a Headteacher, the relevant Local Governing Body will lead and take responsibility for the process

4. Right to be accompanied

When a formal meeting or appeal meeting is called in line with this procedure, employees have a statutory right to be accompanied by a trade union official or some other person of the employee's choice.

Any representative will be required to respect the confidentiality of information regarding other employees, pupils, pupils' families, other service users or commercially sensitive matters which they may become aware of in this role.

SECAT recognises a number of Trade Unions and will work with them where a member is subject to this dismissal procedure.

5. Non-renewal of fixed term contract

In the case of non-renewal of a fixed term contract the procedure shown in paragraph 7 below will be followed. Headteachers, and Managers with delegated powers, must also ensure that the normal notice period is given to the employee.

In the case of fixed term contracts of less than 1 year, an employee will normally have no right to claim unfair dismissal at Employment Tribunal if the contract is not renewed. However if an employee has previous continuous service in Local Government this may result in their total service being more than one year.

In both circumstances SECAT will, however, act in accordance with the ACAS Code of Practice.

6. Other situations where SECAT considers dismissal would occur

There are other situations where SECAT considers dismissal would occur which do not fall under a) – d) of paragraph 1 above and which are not the non-renewal of a fixed term contract. These situations may include: -

- An employee losing their right to work in the UK
- A conviction for a reason not directly affecting employment but resulting in imprisonment and the inability of the employee to attend for work
- A conviction resulting in an inability to fulfil the duties of the post e.g. a Driver who loses their driving licence
- An employee losing their registration to a professional body where such registration is a requirement of the post
- Other situations that may be considered as fair dismissal for some other substantial reason under employment legislation and case law

7. Dismissal Procedure

In either of the situations set out in paragraphs 5 and 6 above, there will be a three step process, in accordance with the ACAS Code of Practice, to consider dismissal.

Step one: Employee informed in writing

In the case of fixed term contracts the employee must be informed in writing that their contract will come to an end. They should be invited to a meeting to discuss their

cessation of employment and advised of their right to appeal if the decision after the meeting is to dismiss.

In other situations the employee must be informed in writing of the reason(s) SECAT may consider their dismissal. They should be invited to a meeting to discuss their employment situation and the position of SECAT and advised of their right to appeal if the decision after the meeting is to dismiss.

Step two: Formal meeting

A formal meeting should be held by the relevant Headteacher/Manager with delegated powers, for employees who are leaving SECAT's employment because their fixed term contract is coming to an end or they are being considered for dismissal for another reason.

Where the employee's fixed term contract is coming to an end, the meeting should cover:

1. Explaining that the employment is due to come to an end on the specific date
2. Explaining that as a result they are/are not at risk of redundancy (if applicable)
3. Explaining that as a result they are/are not able to be considered for any redeployment opportunities
4. Listening to any submissions by the employee
5. Explaining the process – the relevant Headteacher/Manager with delegated powers will consider the situation and what the employee has said, come to a conclusion and inform the employee in writing, giving the right to appeal
6. Answering any questions from the employee

Where the employee is being considered for dismissal for another reason, the meeting should cover:

1. Explaining the reason that SECAT believes that they must consider dismissal
2. That as a result they are/are not able to be considered for any redeployment opportunities (*e.g. would be able to search for a non-driving job for a Driver who has lost their licence, would not be able to search for another job for an employee losing their right to work in the UK*)
3. Listening to any submissions by the employee
4. Explaining the process – the relevant Headteacher/Manager with delegated powers will consider the situation and what the employee has said, come to a conclusion and inform the employee in writing, giving the right to appeal if the decision is to dismiss
5. Answering any questions from the employee

In both situations the meeting should be documented and a record should be held on file that an invite has been given to attend this meeting, even if the employee declines the offer. After such meetings, the employer must inform the employee of the decision in writing and, if that is dismissal, their right to appeal.

Step three: Appeals

Any employee who is dismissed following a formal meeting under Step two, and has over a year's service has the right of appeal. To appeal they must write to the relevant Headteacher within 10 working days of the date of receipt of the letter confirming the outcome of the formal meeting.

An appeal meeting should be held by the relevant Headteacher, if the decision to dismiss was made by a Manager with delegated powers to do so, or, if the Headteacher took the decision, by a Governor Panel. The appeal hearing process set out the Disciplinary Procedure should be followed for the appeal meeting and the employee must be informed of the outcome of the appeal as in that Procedure.

There will be no further right of Appeal.

8. Dismissals

If the human resources service provider is not present at the formal meeting then the Headteacher/Governor Panel who have reached the decision are responsible for sending an outcome letter to the employee which outlines their decision to recommend dismissal and the employee's right of appeal. A copy of the outcome letter should be forwarded to the human resources service provider, immediately.