

CC CLEVELAND COLLEGE OF
AD ART & DESIGN

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<i>Owner:</i>	Personnel Manager		
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<i>Minor amendments:</i>	<i>Date:</i>	Oct 13	
	<i>Nature of:</i>	Update	
<i>Equality & Diversity Impact Assessment Screening completed (date):</i>			28/10/2013

Equality and Diversity Impact Assessment Screening

Who does the procedure impact on?	Staff	Y	Students		Visitors		Other		
What data is available to screen the impact?	None. This procedure has been rarely used in the past. The formal procedure has now changed in respect of who will handle initial hearings and appeals following the updated staffing structure and therefore the procedure in this format has not yet been used to date.								
Is there sufficient data to screen the procedure effectively?	Yes				No		Y		
What data will be needed in the future to ensure more effective monitoring?									
Is there any existing evidence of the impact of this procedure on people with different protected characteristics of age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex, or sexual orientation? e.g. higher or lower participation rates.	Yes – positive impact				Yes – negative impact		No evidence		Y
	Evidence of positive impact:								
Evidence of negative impact:									
Has consultation with relevant groups raised any E&D issues?	Yes				No		Y		
What action needs to be taken before further or full assessment can be made?	None								
Screening completed by: (screening must always be done by at least 2 people)									
Name	Amy Clark								
Job Title	Personnel Manager								
Name	Martin Raby								
Job Title	Principal								

DISCIPLINARY POLICY AND PROCEDURE

INTRODUCTION

1. Cleveland College of Art and Design takes its responsibilities as an employer seriously. Ultimately the College aims to adhere to all current employment legislation and strive towards best practice in all respects. The purpose of this document is to state clearly how the College intends to deal with the staff disciplinary issues. This policy statement is accompanied by procedures that stipulate how the College will implement the policy when the need arises.

SCOPE AND PURPOSE

2. This policy and procedure applies to all members of staff other than “holders of senior posts” as defined in the College’s Instruments and Articles of Government.
3. The policy and procedures will be applied in accordance with the Instruments and Articles of Government of the Corporation and in accordance with the Advisory, Conciliation and Arbitration Services Code of Practice, ‘Disciplinary Practice and Procedures in Employment’.
4. The purpose of the policy and procedure is:
 - i) to help and encourage employees to achieve and monitor acceptable standards of conduct and work performance. In this sense the policy and procedure seeks to be corrective rather than punitive; and
 - ii) to ensure consistent and fair treatment for all in relation to disciplinary action taken in response to allegations of unacceptable conduct or work performance.

DEFINITIONS

5. An employee is a person who is in the paid employment of the College who is paid via monthly payroll, not someone who is a contractor or consultant providing a contract for service.

GENERAL PRINCIPLES

6. Every effort will be made to avoid the use of disciplinary action where alternatives are appropriate. A separate capability procedure will be used to address issues of professional capability and competence.
7. Special consideration should be given to disciplinary action in relation to unacceptable work performance. In such cases it is essential that the

College's staff performance management systems and other more informal guidance and support mechanisms are fully utilised by the line manager before the formal disciplinary procedure is used. Such informal guidance and support may include coaching, further training, encouragement to seek professional help where appropriate et cetera.

8. An employee has the right to be present and accompanied and represented by a representative of a recognised Trade Union or work place colleague at any formal stage of the disciplinary procedure. Recognised Trade Unions are defined within the College's Employment Policy.
9. No formal disciplinary action will be taken against an employee until the circumstances have been fully investigated. If appropriate, the College may suspend the employee, in accordance with the provisions of this document (below) whilst the investigation is carried out.
10. No formal disciplinary penalty will be imposed without a disciplinary hearing. Other than in cases of gross misconduct, or gross negligence, when the penalty may be dismissal without notice or payment in lieu of notice, no employee will be dismissed for a first offence. An employee will have the right to appeal against any disciplinary penalty imposed.
11. In the interest of ensuring that disciplinary matters are resolved as speedily as possible, time limits are given for appropriate stages in this procedure. These are for guidance. If it is not practicable to adhere to these time limits, they may be amended, ideally by mutual agreement. Due regard will be given to the personal circumstances of all parties involved in the procedure.
12. It is recognised that disciplinary action against a trade union officer could be seen as an attack on the union's functions. Although normal disciplinary standards will apply to their conduct as employees, no disciplinary action beyond an oral warning should be taken until the circumstances of the case have been discussed with a full-time official. It should be noted, however, that this does not preclude the suspension of a trade union officer whilst an investigation is conducted.

THE PROCEDURE

13. Normally, the procedure will be followed in the order of the stages set out in the sections below. However, offences of a serious nature may be brought into the procedure at any stage, if any earlier stage would not be severe enough or appropriate to deal with it. For example, there may be occasions when misconduct is considered not to be so serious as to justify dismissal, but serious enough to warrant only one written warning which will be both the first and final written warning. At every stage of the procedure, the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.

INFORMAL

14. Before taking formal disciplinary action, every effort will be made by the line manager and/or relevant Vice Principal to resolve the matter by informal discussions with the employee, if appropriate.
15. Minor lapses from acceptable standards of conduct or work performance will usually be dealt with by the employee's line manager or Vice Principal giving informal oral warnings or reprimands, which will not be recorded on the Personnel Department's file relating to the employee.
16. If, despite informal discussions (or if informal discussions are not appropriate), the employee's conduct does not meet acceptable standards, the following formal procedure will be used. Informal discussions may be referred to as evidence during the formal stages of the procedure.

FORMAL

INVESTIGATION

17. An Investigating Officer will be appointed to conduct an initial investigation to establish the facts of the alleged misconduct or unacceptable performance. This may include collecting relevant documentation/evidence, and taking statements from witnesses and the employee concerned. Additionally the Investigating Officer may make a request for a written explanation of the alleged misconduct by the employee concerned.
18. The employee concerned will be given at least 2 working days notice to prepare for their investigatory interview, unless they state they are willing to forego this notice.
19. The investigating officer will make every attempt to conclude the investigation within 4 weeks of receiving notification of the alleged offence. Exceptionally this may not be possible or desirable if the investigatory period is interrupted by staff holidays.

DISCIPLINARY HEARING

20. If the College decides to hold a disciplinary hearing relating to the matter complained of, the employee will be advised of the nature of the complaint against him or her at least 10 working days before such hearing.
21. Documentation to be used at the hearing should be exchanged by the employer and the employee at least 5 working days before the hearing. The identity of witnesses who submit statements may be withheld from the employee where the witnesses consider that the safety of themselves or

their family is at risk. In such cases statements will be exchanged anonymously.

22. At any disciplinary hearing, the employee will be given an opportunity to state his or her case and will have the right to be accompanied and represented by the recognised trade union representative or work place colleague of his or her choice.
23. If the employee fails, without good reason, to attend a disciplinary hearing, which the College has instructed him or her to attend, the hearing will take place, and a decision will be made, in his or her absence.
24. However, if the chosen representative of the employee is unavailable on the date of the initial hearing, the employee may delay the date of that hearing once by up to 10 working days to enable the chosen representative to attend. The request to defer the hearing should be made as soon as possible and at least 2 days before the hearing is due to take place. The location and timing of any alternative hearing should be convenient to both the employer and the employee.
25. The Personnel Manager will normally be present at all Disciplinary Hearings to advise the College on procedural matters.

MONITORING AND EVALUATION

26. The Personnel Manager and Principal jointly are responsible for monitoring and evaluating the policy and its underlying employment procedures through consultation with recognised trade unions, feedback from staff, and appropriate reporting and evaluation to the Principalship and Operations & Leadership Team.

EQUALITY STATEMENT

27. This policy will be implemented in line with the principles of the College's commitment to equality and diversity which is:

Cleveland College of Art and Design is committed to the principles of equality and diversity and aims to ensure that all employees and College users are treated fairly and equally regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation.

DISCIPLINARY PROCEDURE

1. Management responsibility for conducting disciplinary action will be as follows:

Stage	Responsibility for Action (minimum grade)	Appeal	Length of time penalty recorded on Personal File
1. Oral warning	Suitable member of Operations & Leadership Team/ designated alternate	Vice Principal / designated alternate	12 months
2. Written warning	Suitable member of Operations & Leadership Team/ designated alternate	Vice Principal / designated alternate	18 months
3. Final written warning	Suitable member of Operations & Leadership Team/ designated alternate	Vice Principal / designated alternate	24 months
4. Dismissal	Principal	Committee of the Corporation Board	N/A

2. A suitable member of the Operations & Leadership Team will be nominated to hear the matter in the first instance by the Vice Principal who would hear any subsequent appeal.
3. The designated alternate to a Vice Principal will be a Vice Principal. This arrangement must apply where the member of staff who is the subject of the disciplinary matter is directly line-managed by a Vice Principal. This is to ensure that the member of staff's direct line manager will not conduct the disciplinary action. In these circumstances the Principal will hear any appeal.
4. In the case of members of the Principalship (i.e. Vice Principals) the Principal shall be responsible for undertaking the action outlined in Stages 1, 2, 3 & 4 and a Disciplinary Panel of the Governing Body shall hear any appeal against the decision from those stages.
5. In the event that the designated member of staff cannot discharge management responsibility in respect of the process a member of staff of equivalent or greater seniority may normally undertake it. **Exceptionally**, in the event that the Principal is unavailable through illness or other absence then he may designate a Vice Principal in his stead provided that the staff member who is the subject of the disciplinary hearing is not a member of the Operations & Leadership Team or a Vice Principal. In the Principal's absence disciplinary hearings involving a member of the Operations &

Leadership Team or a Vice Principal must be conducted by a governor designated by the Chair (or in his absence, Vice Chair) acting on the advice of the Clerk. Staff and student governors will be ineligible for such designation.

6. In the event that a disciplinary matter is heard in the first instance by a governor (designated in accordance with paragraph 5 above) a special Committee of the Corporation will hear any appeal and the governor who heard the initial matter will be ineligible for membership of the special Committee of the Corporation.
7. Notification of disciplinary action will be given verbally at the hearing, normally after a brief adjournment, and will be confirmed in writing within 5 working days.

STAGE 1 – ORAL WARNING

8. If conduct or work performance does not meet acceptable standards, the employee will normally be given a formal ORAL WARNING by the appropriate member of the Operations & Leadership Team or designated alternate. The employee will be advised of the reason for the warning, that it is the first stage of the formal disciplinary procedure and that he or she has a right to appeal against it in accordance with the provisions of this document, set out below at paragraphs 18-21. A brief note of the oral warning will be placed on the Personnel Unit's file relating to the employee. After 12 months, the warning will be spent and the note thereof will be removed from the Personnel Unit's file, subject to the employee's conduct and work performance having been satisfactory throughout that period.

STAGE 2 - WRITTEN WARNING

9. A WRITTEN WARNING will be given to the employee by the appropriate member of the Operations & Leadership Team or designated alternate, if:
 - i) the employee commits a serious offence of misconduct or the standard of his or her work performance is seriously inadequate;
 - ii) the employee fails to comply with a formal oral warning given under Stage 1; or
 - iii) despite having been given, under Stage 1, a formal oral warning as the result of either misconduct or unsatisfactory work performance, the employee commits a further offence of misconduct, or his or her work performance continues to be unsatisfactory.
10. This written warning will give details of the complaint against the employee, the improvement required and the time limit within which such improvement

must be achieved. In the case of misconduct, the warning will state that, if the employee commits a further offence of misconduct during the period specified in the warning, action under Stage 3 will be considered. In the case of unsatisfactory work performance, the warning will advise the employee as to what steps he or she should take to improve and will state that, unless such improvement is achieved within the period specified in the warning, action under Stage 3 will be considered. The written warning will also advise the employee of the right of appeal in accordance with the provisions of this document, set out below at paragraphs 18-21. A copy of the written warning will be placed on the Personnel Unit's file relating to the employee. The warning will be spent, and will be removed from the Personnel Unit's file, after 18 months, subject to the employee's conduct and work performance having been satisfactory throughout that period.

STAGE 3 – FINAL WRITTEN WARNING

11. A FINAL WRITTEN WARNING will normally be given to the employee by the appropriate member of the Operations & Leadership Team or designated alternate, if:

- i) the employee fails to comply with a first written warning given under Stage 2;
- ii) despite having been given, under Stage 2, a first written warning as the result of either misconduct or unsatisfactory work performance, the employee commits a further offence of misconduct, or his or her work performance continues to be unsatisfactory; or
- iii) the employee's misconduct or unsatisfactory work performance, although not considered to be serious enough to justify summary dismissal, is sufficiently serious to warrant only one written warning (in effect both the first and a final written warning).

12. The final written warning will give details of the complaint, the improvement required and the time limit within which such improvement must be achieved. In the case of misconduct, the warning will state that, if the employee commits a further offence of misconduct, during the time limit specified in the warning, his or her employment will be terminated. In the case of unsatisfactory work performance, the warning will advise the employee as to what steps he or she should take to improve and state that, if such improvement is not achieved within the period specified in the warning, his or her employment will be terminated. The final written warning will also advise the employee of the right of appeal in accordance with the provisions of this document, set out below at paragraphs 18-21. A copy of the final written warning will be placed on the Personnel Unit's file relating to the employee. The warning will be spent and will be removed from the

Personnel Unit's file after 24 months (although, in exceptional cases, the period may be longer) subject to the employee's conduct and work performance having been satisfactory throughout that period.

STAGE 4 – DISMISSAL

13. NOTICE OF DISMISSAL. Having had due regard for mitigating factors presented by the employee and his/her representatives, the Principal may give notice of dismissal to the employee, if:

- i) the employee fails to comply with a final written warning given under Stage 3; or
- ii) despite having been given, under Stage 3, a final written warning as the result of either misconduct or unsatisfactory work performance, the employee commits a further offence of misconduct or his or her work performance continues to be unsatisfactory.

14. The notice of dismissal will be in writing and will specify the reasons for dismissal, the date on which the employment will end and the right of appeal against the dismissal or the notice of dismissal in accordance with paragraphs 23-25 below. If the employee appeals against the notice of dismissal, the dismissal shall not take effect until the appeal has been determined.

15. SUMMARY DISMISSAL. An employee who is accused of gross misconduct, or gross negligence may be suspended from work, in accordance with the provisions of this document, set out below, whilst the College investigates the alleged offence. The Principal may summarily dismiss the employee if, on completion of the investigation and a disciplinary hearing it is established that the employee has been guilty of gross misconduct or gross negligence. Such dismissal will be without notice or payment in lieu of notice and will be confirmed to the employee in writing, specifying the reasons for the dismissal and the right of appeal against it in accordance with the provisions of this document, set out below.

16. The following offences are examples of offences which are normally regarded as grounds for summary dismissal:

- i) Theft or unauthorised possession of any property or facilities belonging to the College, or to any employee or student;
- ii) Serious damage deliberately sustained to College property;
- iii) Deliberate falsification of College registers, reports, accounts, expense claims or self-certification forms;
- iv) Bribery or corruption;

- v) Refusal to carry out duties or reasonable instructions or to comply with College rules;
- vi) Serious acts of insubordination;
- vii) Serious negligence/incompetence, which causes unacceptable loss, damage or injury;
- viii) Serious incapability as a result of being intoxicated by reason of alcohol or illegal drugs.
- ix) Violent, dangerous or intimidatory conduct;
- x) Violation of the College's rules and procedures concerning health and safety at work;
- xi) Sexual, racial or other harassment of another employee or a student;
- xii) A criminal offence, which may (whether it is committed during or outside the employee's hours of work for the College) adversely affect the College's reputation, the employee's suitability for the type of work he or she is employed by the College to perform or his or her acceptability to other employees or to students; and
- xiii) Misuse of the College IT systems e.g. viewing or downloading information from the Internet that could reasonably be deemed as grossly sexually or racially offensive.

17. The above examples are not exhaustive or exclusive and offences of a similar nature will be dealt with under this procedure.

APPEALS AGAINST DISCIPLINARY PENALTIES OTHER THAN DISMISSAL

18. An employee who wishes to appeal against a formal oral warning, a written warning or a final written warning or a disciplinary suspension should inform the Clerk to the Corporation in writing. The appeal must be received within 10 working days of the date of the decision that forms the subject of the appeal. The appeal will be heard (as required under paragraphs 1 to 6 above) by:

- i) A Vice Principal;
- ii) The Principal; or
- iii) A special Committee of the Governing Body.

19. The Vice Principal, Principal or disciplinary panel, will conduct an appeal hearing as soon as possible after the notice to appeal has been received. At the hearing of the appeal, the employee will be given an opportunity to

state his or her case and will be entitled to be accompanied and represented by the trade union representative or work place colleague.

20. However, if the employee's representative is unavailable on the date of the initial Appeal, the employee may delay the date of the Appeal once by up to 10 working days to enable the chosen representative to attend.
21. At the appeal, the disciplinary penalty imposed will be reviewed, but it cannot be increased. The decision of the Vice Principal, Principal or disciplinary panel, as appropriate, will be notified to the employee in writing within 10 working days of the appeal hearing and will be **final** and binding.

COMPOSITION OF SPECIAL COMMITTEE OF THE CORPORATION

22. Any special Committee of the Corporation convened to hear appeals in respect of staff disciplinary matters or dismissal shall consist of three members of the Corporation, excluding the Principal, the staff and student members and any governor who heard the initial matter (if applicable under the terms of paragraphs 5 and 6 above).

APPEALS AGAINST DISMISSAL OR NOTICE OF DISMISSAL

23. An employee who wishes to appeal against dismissal or notice of dismissal should inform the Clerk to the Corporation in writing within 10 working days of the date of the decision that forms the subject of the appeal.
24. The appeal will be heard by a special Committee established by the Corporation as set out at paragraph 22 above.
25. The appeal hearing will take place as soon as possible after the notice to appeal has been received by the Clerk to the Corporation. The employee will be given at least ten working days' notice of the date, time and place fixed for the appeal hearing (unless an earlier date has been mutually agreed). At the appeal hearing, the employee will be given an opportunity to state his or her case and will be entitled to be accompanied and represented by the trade union representative or work place colleague of his or her choice. The decision of the Corporation's committee appointed to hear the appeal will be notified or confirmed to the employee in writing within five working days of the appeal hearing and will be final and binding.
26. In the case of an appeal against a notice of dismissal, the dismissal shall not take effect before the appeal has been determined.

SUSPENSION PENDING DISCIPLINARY HEARING

27. When the Principal is of the view that an employee may have been guilty of gross misconduct, or that because of some other good and urgent cause,

the continuing attendance of the employee at the College cannot be permitted, the Principal may suspend the employee from duty pending an investigation and the holding of a formal disciplinary hearing.

28. Exceptionally, in the event that the Principal is unavailable through illness or other absence then he may designate a Vice Principal in his stead to consider the issue of suspension provided that the staff member who is the subject of the disciplinary hearing is not a member of the Operations & Leadership Team or a Vice Principal. In the Principal's absence the suspension of a member of the Operations & Leadership Team or a Vice Principal may be undertaken by the Chair (or in his absence the Vice Chair) of the Governing Body acting on the advice of the Personnel Manager or Vice Principal.
29. Such a suspension will only be imposed after careful consideration and it should be made clear to the employee that it is not considered a disciplinary act.
30. If the Principal (or designated alternate) decides to suspend an employee from duty, he/she shall:
 - i) confirm the suspension in writing to the employee immediately; and
 - ii) inform the employee in writing of the reasons for the suspension, within five working days.
31. An employee who is suspended from duty shall, throughout the period of suspension, continue to be entitled to his/her full pay.
32. An employee who has been under suspension for four weeks or more may appeal in writing to the Corporation against the suspension. Notice of such appeal shall be given in writing by the employee to the Clerk to the Corporation and the appeal shall be heard as soon as practicable by a committee consisting of three members of the Corporation, excluding the Principal and the staff and student members
33. A suspension against which an appeal by an employee is made shall continue to operate pending the determination of the appeal.
34. Where an appeal against suspension is made by an employee to the Corporation, the employee shall be given at least five working days' notice of the date, time and place fixed for the hearing, unless an earlier date has been mutually agreed.
35. At the hearing of an appeal against suspension, the employee may be accompanied and represented by a recognised trade union representative or work place colleague of his or her choice.
36. Following the hearing of an appeal against suspension, the Corporation's Committee appointed to hear the appeal may either confirm or lift the

suspension. The decision of the Corporation, and the reasons for the same, shall be confirmed by the Clerk to the Corporation in writing to the employee within five working days of the hearing of the appeal.

PROCEDURE FOR DISCIPLINARY HEARING

1. During the hearing, adjournments may be requested by either party or by the Vice Principal / Principal (or exceptionally, governor) conducting the hearing and will not be refused unreasonably. Where such a request is denied, an explanation will be given.
2. The Vice Principal / Principal (or exceptionally, governor) conducting the hearing will ask whether any new evidence has been made available that could not be circulated prior to the hearing and will make a judgement as to whether an adjournment is necessary to allow consideration of such evidence.
3. The Vice Principal / Principal (or exceptionally, governor) conducting the hearing will introduce all those present.

ORDER OF HEARING

4. The Investigating Officer (IO) will present the details of the allegation and a report on the investigation undertaken.
5. The employee and his/her representative may question the IO.
6. The Vice Principal / Principal (or exceptionally, governor) conducting the hearing or panel members may question the IO.
7. The IO may call witnesses and ask questions of them.
8. The employee or representative may question the witness.
9. The Vice Principal / Principal (or exceptionally, governor) or panel members may question the witness.
10. The employee and/or representative will present the case against the allegations and explain any special circumstances that may exist and the precise nature of the remedy sought.
11. The IO may question the employee.
12. The Vice Principal / Principal (or exceptionally, governor) may question the employee.
13. The employee and/or representative will call any witness.
14. The IO may question the witnesses.
15. The Vice Principal / Principal (or exceptionally, governor) may question the witnesses.
16. Should the Vice Principal / Principal (or exceptionally, governor) conducting the hearing wish to clarify any issue with either the employee or IO, or of the witness, they will do at this point.

17. The IO will summarise the case against the employee without introducing any new factors.
18. The employee and/or representative will summarise the case against the allegation.
19. The employee, representative, IO and any other management representative will withdraw and the Vice Principal / Principal (or exceptionally, governor) conducting the hearing will decide whether or not an offence has been committed. Vice Principal / Principal (or exceptionally, governor) may seek guidance from a member from Personnel on procedural matters.
20. If, in the opinion of the Vice Principal / Principal (or exceptionally, governor) conducting the hearing an offence has been committed, that Vice Principal / Principal (or exceptionally, governor) will take into account the following before deciding upon an appropriate disciplinary sanction:
 - i) any mitigating factors, e.g. health, domestic, bereavement;
 - ii) current disciplinary record of the employee;
 - iii) length of service at the College;
 - iv) nature of the offence;
 - v) evidence produced by either party at the hearing;
 - vi) statements and answers provided by witnesses;
 - vii) any sanctions imposed in the past for similar offences.
21. Once that decision is made, the two parties will be recalled and advised of the decision.
22. The employee will be advised of their right to appeal against the decision and informed whom that appeal should be lodged with and in what time scale.
23. Written confirmation of the decision will be sent to both parties within 5 working days of the hearing.

PROCEDURE FOR APPEALS

1. Generally, an appropriate Vice Principal, the Principal or an Appeals Committee of the Corporation may hear the Appeal.

ORDER OF BUSINESS

2. If an Appeals Committee is used, then the Chair should introduce those present.
3. Vice Principal, Principal (or Chair of Appeals Committee) will clarify if notes will be taken at the meeting and to whom they shall be made available. It is standard practice for both sides to take their own notes.
4. The management representative to give a short résumé of the Appellant's post within the College and place in the organisational structure.
5. The Appellant/representative to state their case and explain any special circumstances which may exist and the precise nature of the remedy sought.
6. The Appellant/representative to introduce any witnesses.
7. The management representative to ask questions of the witnesses and Appellant as appropriate.
8. The Vice Principal / Principal (or Committee) to question the witnesses.
9. Appellant's witnesses to withdraw.
10. The Management representative to state the management case with the assistance of relevant members of management.
11. Management representative to introduce any witnesses to give evidence.
12. The Appellant/representative to ask questions of the witnesses and management representative as appropriate
13. The Vice Principal / Principal (or Committee) to question the witnesses.
14. Management representative's witnesses to withdraw.
15. Management representative to summarise the College's case; no new factors to be introduced.
16. The Appellant/representative to summarise the appeal; no new factors to be introduced.
17. Vice Principal / Principal (or Committee) to review case and make decision.
18. Management representative, Appellant and advisers to be informed of the decision by the Vice Principal / Principal (or Chair of Appeals Committee) within 5 working days.