

# ACTION>HR

HR EXPERTISE & SERVICES  
Delivered by Kingston and Sutton Shared Services

## **DISCIPLINARY PROCEDURE FOR SCHOOLS**

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# DISCIPLINARY PROCEDURE

## 1. INTRODUCTION

The aim of this procedure is to help and encourage all employees to achieve and maintain standards of conduct and to ensure consistent and fair treatment. The procedure may be implemented at any stage if the employee's alleged misconduct warrants it. An employee should not be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice.

Disciplinary situations arise when an employee's conduct is not up to the expected standard, including incidents of misconduct or an employee's breach of the rules which have been set by the governing body.

## 2. CRIMINAL INVESTIGATIONS

When an allegation of a criminal nature is made against a member of staff, the matter may need to be referred to the police for investigation. A criminal offence may occur outside employment and be notified to the school or the Local Authority by the police.

Employees should inform their Headteacher at the earliest opportunity of any criminal proceedings or convictions. This could include driving offences where driving is a requirement of the job.

In cases where the police are carrying out investigations, the school will need to be in contact with the police, and not commence disciplinary investigations until the police have confirmed that this can go ahead. This is to ensure that disciplinary investigations do not prejudice the police investigations.

Where an employee is charged with, or convicted of, a criminal offence this is not normally automatically a reason for disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the employee's ability to do the job and their relationship with their employer, work colleagues and pupils/students. Headteachers/Managers should:

- investigate the facts as far as possible and come to a view about whether they show that the conduct is sufficiently serious to warrant commencing the disciplinary procedure;
- where the conduct requires prompt attention, there is no need to await the outcome of any prosecution before taking fair and reasonable action;

Where an employee charged with or convicted of a criminal offence refuses or is unable to co-operate with the school's disciplinary investigations and proceedings, this should not deter action from being taken. The Headteacher/Manager should write to the employee advising them that unless further information is provided, a disciplinary decision will be taken on the information available and could result in dismissal.

It may be decided that the nature of the offence does not justify disciplinary action because it has no bearing on the employment. However the employee may not be available for work because they are in custody or on remand. In these cases the Headteacher/Manager will have to decide whether the job can be kept open bearing in mind the needs of the school. The nature of the conviction, for example the loss of a driving licence, may make employment in a particular job illegal so consideration should be given as to whether alternative work is appropriate and available.

### **3. CHILD PROTECTION**

The Headteacher must inform the Local Authority Designated Officer [LADO] as soon as an allegation related to Child Protection is made against a member of staff.

In Child Protection cases, disciplinary investigations should not start until after the child protection enquiries are complete and have been discussed at a Senior Strategy Meeting.

Where a member of staff tenders their resignation or ceases to provide services to the school this must not prevent an allegation being followed up. It is important that every effort is made to reach a conclusion in all cases where an allegation concerning the safety and welfare of children, young people and vulnerable adults has been made. This includes where the person concerned refuses to co-operate with the process. The employee should be given a full opportunity to answer the allegations and make representations. The process of recording the allegations and any supporting evidence, and reaching a judgement about whether it can be regarded as substantiated on the basis of all the information available, should continue even if that cannot be done or the person does not cooperate. It may be difficult to reach a conclusion in these circumstances. It may not be possible to apply any sanctions if a member of staff's period of notice expires before the process is complete, but it is important to reach a conclusion wherever possible.

### **4. RECORD KEEPING / CONFIDENTIALITY**

Headteachers/Managers will treat all information relating to disciplinary issues with sensitivity and strict confidence. Line Managers and others

involved with disciplinary cases, including the employee, should be reminded not to discuss the case with anyone who is not involved in the case. This would include discussing the case electronically, for example on social networking sites.

Where a written warning is given this should be removed from the personal file after 12 months for a first written warning and after 24 months for a final written warning and a diary note should be made, either manual or electronic, to ensure that this is done.

Copies of meeting records should be given to the employee, including copies of any formal minutes that may have been taken. In some circumstances it may be possible to withhold certain information, for example to protect a pupil, in such cases statements may be redacted.

### **Data protection**

The school processes personal data collected during the investigation stage and any subsequent stages of disciplinary procedure in accordance with its data protection policy. In particular, data collected as part of the investigation stage and any subsequent stages of the disciplinary procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under this disciplinary procedure.

## **5. ROLE OF THE GOVERNING BODY**

A panel of 2 governors will be responsible for hearing any appeals under the disciplinary procedure so it is essential that where the use of the procedure is likely, the role of governors is not prejudiced. For this reason Headteachers should ensure that matters relating to individual disciplinary cases are not discussed at governing body meetings.

Any governor who has any prior knowledge or previous involvement should declare this and not be part of the panel.

Panel members will elect a Chair for the meeting.

## **6. ROLE OF HUMAN RESOURCES**

It is recommended that Headteachers and Governors seek advice from their HR provider at all stages of the procedure.

## 7. RESOLVING DISCIPLINARY ISSUES INFORMALLY

In the course of normal day to day management it is good practice for the line manager to bring any shortcomings in the conduct of an employee to their attention at the earliest opportunity. However, there will be cases where the matter is more serious or the informal approach has not worked.

When the informal approach is being used Headteachers/Managers should:

- **talk** to the employee in private.
- **discuss** the shortcomings in conduct and encourage improvement. Any criticism should be constructive with the emphasis on finding ways to improve conduct and for that improvement to be sustained.
- **listen** to what the employee has to say and if it becomes evident that there is no problem make this clear.

Where improvement is required make sure that the employee understands what is needed, how their conduct will be reviewed and the timescale for this. Headteachers/Managers should confirm this in writing.

Care should be taken that any informal action does not turn into formal disciplinary action because this may unintentionally deny the employee certain rights, for example the right to be accompanied. If during the informal discussion it becomes apparent that the matter is more serious the meeting should be adjourned and the employee told that the issue will be continued under the formal procedure.

Brief notes should be kept of any informal action that has taken place including action agreed and review timescales. The employee should be given a copy of any notes and actions.

Where informal action does not resolve the matter or the misconduct is more serious a move to the formal procedure will be required.

## 8. MOVING TO THE FORMAL STAGE OF THE PROCEDURE

### 8.1 ESTABLISH THE FACTS

It is important to carry out a thorough investigation of potential disciplinary matters to establish the facts of the case without delay.

If, during the course of a disciplinary investigation, child protection matters come to light the investigation will be temporarily halted and guidance sought from the Local Authority Designated Officer [LADO].

Employees should be dealt with in a fair and reasonable manner. It is important to keep an open mind and look for evidence which supports the employee's case as well as evidence against.

The Headteacher should normally appoint an Investigating Officer. This would usually be a senior manager at the school.

The Headteacher should inform the Chair of Governors that an investigation is to take place but not share any details of the case.

The Investigating Officer will arrange to interview the employee and any witnesses to establish the facts.

The employee being interviewed has the right to be accompanied by a work colleague or trade union representative.

When the investigation is complete the Investigating Officer will write a report and decide whether or not there is a case to answer based on the balance of probabilities.

The Investigating Officer should have a note taker to take notes at investigation meetings and thought should be given to the appropriateness of the person carrying out this role.

## **8.2 SUSPENSIONS**

A period of suspension, with pay, may be considered appropriate whilst the investigation is taking place. For example in gross misconduct cases, where there is a possible risk of harm to children, young people or vulnerable adults posed by the employee or where relationships have broken down. It is essential that the question of suspension is very carefully considered and is not an automatic response, even in situations of potential child protection. Actions 'short of suspension' must be carefully considered as an alternative to suspension. The reason for a decision to suspend must be recorded.

The Headteacher and the governing body have the power to suspend a member of staff on full pay but only the governing body have the power to end the suspension.

Suspension should be as brief as possible and be regularly reviewed at least on a monthly basis.

It should be made clear to the employee that suspension is not an assumption of guilt and is not considered a disciplinary sanction.

## **8.3 WHAT IS MISCONDUCT AND GROSS MISCONDUCT?**

The majority of acts of misconduct will not normally be sufficiently serious to warrant dismissal without previous warnings being in place but, if substantiated, may warrant disciplinary action. Gross misconduct is generally seen as misconduct serious enough to overturn the contract between the employee and the employer thus justifying summary dismissal (dismissal without notice). Acts which constitute gross misconduct are very serious. The following lists gives examples of misconduct and gross misconduct but this list is not exhaustive:-

#### Misconduct

- Poor timekeeping.
- Absenteeism including failure to follow the schools sickness reporting procedure and certification requirements.
- Failure to follow reasonable management instructions.
- Failure to observe the school's regulations or agreed procedure.
- Abuse towards any of the school community.
- Negligence in the performance of duties, including neglect of the school property or property of pupils and other employees.
- Misuse of school property.
- Improper use of information gained whilst in the schools employ.
- Abuse of sick leave including actions during a period of sick leave likely to inhibit recovery and return to work.
- Behaviour in breach of the schools standards and code of conduct.

#### Gross Misconduct

- Serious breaches of any school policies, rules or standards
- Maltreatment of pupils/students
- Theft or unauthorised removal of school property
- Fraud, including the falsification of timesheets and expense claims
- Physical violence
- Abusive/Offensive language
- Offences of dishonesty
- Serious sexual offences or sexual misconduct at work
- Bullying
- Deliberate and serious or malicious damage to school property
- Serious misuse of school property or name
- Accessing internet sites containing pornographic, offensive or obscene material or distributing such material
- Data Breach under GDPR
- Serious insubordination, and failure to follow a legitimate and reasonable management instruction
- Unlawful discrimination or harassment
- Bringing the school into disrepute, including inappropriate use of social networking sites
- Serious incapability at work brought on by alcohol or illegal drugs
- Causing loss, damage or injury through serious negligence,
- A serious breach of health and safety rules
- A serious breach of confidence
- Corruptly soliciting or receiving any benefit or advantage from any individual or body with whom the school has dealings

- Misuse of school property, including taking or using without permission, taking school vehicles for private use, using school computers to access any social networking sites such as Facebook inappropriately or without permission, making telephone calls outside the United Kingdom or using any premium rate numbers

Where an employee is accused of an act of gross misconduct they may be suspended from work on full pay whilst the alleged offence is investigated. At the end of the investigation and completion of the full disciplinary process where the Headteacher/Manager is satisfied that the act of gross misconduct did occur the result may be summary dismissal without notice or payment in lieu of notice.

#### **8.4 ROLE OF INVESTIGATING OFFICER**

An investigating officer (IO) will be appointed by the Headteacher or senior manager. This will usually be the line manager of the employee unless the line manager is a witness to the alleged misconduct.

The IO will write to the employee to invite them to a fact finding meeting. The letter of invitation will include the nature of the allegations levied against the employee, include the right to be accompanied for the employee and outline possible outcomes at the end of the fact finding investigation. The meeting should take place as soon as possible after the alleged misconduct has occurred.

The IO may have to interview witness and any witness account will be disclosed to the employee. If the witnesses are pupils then an account can be taken with the assistance and direct involvement of the parents. Pupils should always be interviewed by a member of staff at the school who can act as witness to the child's evidence. Any statement taken in this format will have the name of the pupil redacted.

At the conclusion of the fact finding process the IO will write a report and determine whether there is a case to answer against the employee. The report will be submitted to the Headteacher to arrange a hearing. If there is no case to answer following the investigation process then the employee will be informed in writing as soon as possible and ideally within 5 working days.

#### **8.5 INFORM THE EMPLOYEE**

Once the Investigating Officer has made the decision that there is a case to answer the employee should be notified, in writing, and invited to a disciplinary meeting which should be held without unreasonable delay

whilst allowing the employee a reasonable amount of time to prepare their case.

Where the trade union representative or work colleague is not able to attend the meeting on the date given, the employee is required to offer an alternative date but it must be within 5 working days of the original meeting date. Should an employee fail to attend the meeting without any explanation or brief their representative to attend on their behalf or send in a written response then the meeting can proceed in the employee's absence. If the employee does not have a representative, the chair of the meeting must establish if the employee is content to proceed with the meeting or agree to one adjournment.

The letter should give 10 working days' notice of the meeting and include:

- the time, date and venue for the meeting
- a copy of the management investigation report.
- copies of any written evidence, which may include witness statements.
- a copy of the notes of fact finding meeting with the employee
- advice of their right to be accompanied by a work colleague or trade union representative (the employee is responsible for arranging such attendance)
- notification of any witnesses to be called by the Headteacher/Manager
- a request that the name/s of any witnesses to be called by the employee is notified at least 3 working days in advance of the meeting.
- a request that any documentary evidence the employee wishes to present must be submitted at least 3 working days before the date of the meeting so that it can be copied to all parties.
- a request that the employee confirms that they will be attending and provides the name of their representative.
- a copy of the disciplinary procedure

## **8.6 RIGHT TO BE ACCOMPANIED**

Employees have the right to be accompanied at a disciplinary meeting by a work colleague or trade union representative. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker.

Disciplinary action against a trade union or professional association representative can lead to a serious dispute if it is seen as an attack on the organisation's functions. No disciplinary action will be taken against any such representative until the circumstances of the case have been discussed with a full-time official of the organisation concerned. In cases where immediate action i.e. suspension, is considered necessary the matter must be discussed with a full-time official of the organisation as soon as possible and before any formal disciplinary proceedings take place.

To exercise their right to be accompanied an employee must make a reasonable request. The request does not have to be in writing. It would not normally be reasonable for an employee to be accompanied by a work colleague whose presence would prejudice the hearing or who might have a conflict of interest.

The trade union representative or work colleague may address the hearing to put forward and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting, ask witnesses questions and confer with the employee during the hearing. However the representative/colleague does not have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining the case.

If the trade union representative or work colleague is unable to attend on the date set the employee can suggest an alternative date so long as this is reasonable and not more than 5 working days after the original date.

The employee should notify the Headteacher/Manager who their representative/colleague will be.

## **9. DISCIPLINARY MEETING**

### **9.1 PREPARATION**

When preparing for the meeting the Headteacher/person hearing the case should:

- arrange for the meeting to be in private where there will not be interruptions, with separate waiting areas for both parties and for witnesses
- inform the employee of their right to be accompanied.
- allow the employee time to prepare their case.
- ensure that copies of any relevant papers and witness statements are made available to the employee in advance of the meeting.
- allow the employee to call witnesses and/or submit witness statements subject to prior notification.
- arrange for someone who is not involved in the case to take a note of the meeting. The employee will be given a copy of these notes following the meeting.
- ensure that all the relevant facts are available, such as disciplinary records, any other relevant documents and, where appropriate written witness statements.
- check whether there are any special circumstances which may have affected the employee's conduct for example any personal or other outside issues.
- consider arranging for an interpreter where the employee has difficulty speaking in English. It may be that this person is in

addition to the companion although ideally the person should carry out both roles.\*

- consider whether adjustments are necessary for a person who is disabled and/or their companion is disabled. Reasonable adjustments may be needed for an employee with a disability (and possibly for their companion if they are disabled) for example the provision of a support worker or advocate with knowledge of the disability and its effects. It may be that this person is in addition to the companion although ideally the same person should carry out both roles\*
- prepare an agenda and think about the structure of the meeting, and make a note of the points to be covered.

\* the employee should make known any special requirements as soon as possible so that appropriate arrangements can be made.

There could be occasions where an employee is unable or unwilling to attend a meeting. This could be for reasons such as genuine illness, being held in custody or because they refuse to face up to the situation. Where there are genuine reasons for non-attendance the meeting could be rearranged on a maximum of two occasions. Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause the Headteacher should make a decision on the evidence available. Where this happens the Headteacher should consider:

- the seriousness of the disciplinary issue under consideration
- the employee's disciplinary record, including current warnings, general work record, work experience, position or length of service.
- medical opinion as to whether the employee is fit to attend the meeting if applicable
- how similar cases in the past have been dealt with

Where the employee continues to fail to attend the meeting they should be informed that the case will be heard on the evidence available.

## **9.2 PROBLEMS THAT COULD ARISE DURING THE DISCIPLINARY MEETING**

Where an employee raises a grievance during a disciplinary meeting consideration should be given to suspending the disciplinary procedure to allow for the grievance to be heard by following the grievance procedure. This may be necessary when:

- the employee raises a grievance by alleging that the Headteacher has a conflict of interests.
- bias is alleged in the conduct of the disciplinary meeting
- there is possible discrimination

Headteachers should be aware that disciplinary meetings may not proceed smoothly and people may become upset or angry. They should be prepared for this and allow time for an employee to compose themselves before continuing. It may be advisable to take a short

adjournment. It could be that people will let off steam during the meeting but abusive language or conduct should not be tolerated.

## 10. DECIDING ON APPROPRIATE ACTION

When deciding whether a disciplinary penalty is appropriate and, if so what form it should take, Headteachers should consider the following:

- any rules the school may have which indicate what the penalty for a particular misconduct are.
- what penalty has been imposed for previous similar cases.
- whether the standards of other employees are acceptable and that this employee is not being unfairly singled out.
- the employee's disciplinary record, including current warnings, general work record, work experience, position and length of service.
- the mitigation offered by the employee and any character references if supplied.
- any special circumstances which might make it appropriate to adjust the severity of the penalty.
- whether the proposed penalty is reasonable in view of all of the circumstances.
- whether any training, additional support or work adjustments are necessary.

When coming to a decision consideration should be given to what has happened and how serious each allegation is. The decision should be based on the balance of probabilities. Each allegation must have a separate sanction. The Chair must complete the panel rationale sheet before communicating the outcome to the employee.

Where it is found that there is no case to answer a letter should be sent to the employee and a copy kept on file to show that an investigation has been held and the conclusion was that there was no case to answer.

The result of the hearing should be given at the end of the meeting, if possible and confirmed in writing as soon as possible and ideally within 5 working days.

## 11. IMPOSING THE DISCIPLINARY PENALTY

### 11.1 FIRST WRITTEN WARNING

Where misconduct is confirmed a first written warning should be issued. The letter should:

- set out the nature of the unsatisfactory conduct
- give details of the change in behaviour expected if relevant.
- give the timescale in which the improvement is required if appropriate.

- explain that where there is no improvement or if there are any further instances of misconduct of any nature this could lead to further formal action being taken.
- explain the warning will be kept on their personal record for 12 months
- give the right to appeal against the disciplinary sanction, including the timescales.

## **11.2 FINAL WRITTEN WARNING**

Where an employee has a current warning in place then further misconduct of any nature may warrant further formal action being taken. However any further misconduct must be fully investigated.

Where a first act of misconduct is sufficiently serious a final written warning could be issued without there having been a first written warning.

The letter should:

- set out the nature of the misconduct
- give details of the change in behaviour expected.
- give the timescale in which the improvement is required.
- explain that dismissal may result where there is no improvement or there is further misconduct of any nature.
- explain the warning will be kept on their personal file for 24 months
- give the right to appeal against the disciplinary sanction, including the timescales.

## **11.3 DISMISSAL WITH NOTICE**

Employees should only be dismissed if, despite warnings, their conduct has not improved within the specified timescale or there has been another incident of misconduct of any nature.

The letter to dismiss must contain:

- the reasons for dismissal
- the date on which employment will end
- the appropriate period of notice
- the right of appeal against dismissal, including the timescales

## **11.4 DISMISSAL WITHOUT NOTICE**

Where the employee has been dismissed for gross misconduct they will be subject to summary dismissal. Such offences should be clearly

shown in the school's rules. However it is recognised that this list is not exhaustive.

The letter to dismiss must contain:

- the reasons for dismissal
- the date on which employment will end
- the right of appeal against dismissal, including the timescales.

## 12. APPEALS

An employee has the right to appeal against a formal discipline outcome. The appeal must be in writing and should be sent to the Clerk to the Governors or School Business Manager within 10 working days of the decision giving rise to the appeal. An individual can appeal on the below grounds:-

- abuse of the process, i.e. failure to follow set procedure and policy;
- and /or severity of sanction (the level of the warning was too harsh).

If the appeal does not detail the grounds as detailed under one or both headings it will be returned to the appellant asking them to provide the specific grounds.

A Disciplinary Appeals Hearing will be arranged ideally within 15 working days of receiving the letter of appeal. No governor who had prior involvement in the case which is the subject of the appeal may be included on the appeal panel.

Once the appeal panel members have been identified they will review the appeal pack and to make a decision as to the format of the appeal hearing. The format can either be a review of the outcome and decision taken at the hearing, or should they consider there has been a procedural error (abuse of the process) they can elect to have a full rehearing. Once a decision has been taken as to the type of appeal hearing then the person arranging the meeting will:

- arrange for the appeals panel to meet to hear the appeal ideally within 15 working days of the receipt of the letter of appeal
- arrange a suitable venue for the meeting
- consider arranging for an interpreter where the employee has difficulty speaking in English\*
- consider whether any adjustments are necessary. A reasonable adjustment may be needed for an employee with a disability (and possibly for their companion if they are disabled) for example the provision of a support worker or advocate with knowledge of the disability and its effects\*

- write to the employee to invite them to the meeting giving the time, date and venue, informing them of their right to be accompanied and that there is no further right of appeal
- prepare an agenda for the meeting
- send copies of all relevant paperwork to all parties including the relevant records and notes from the original disciplinary meeting and a copy of the disciplinary procedure prior to the hearing.
- if there is to be a full rehearing invite the relevant witness.
- arrange for minutes to be taken at the Hearing.

\* the employee should make known any special requirements as soon as possible so that appropriate arrangements can be made.

The invitation letter should give 10 working days' notice of the meeting. Both parties should provide any further relevant paperwork and in the case of a full rehearing notify the names of any witnesses to be called. The information must be provided to the person arranging the hearing at least 5 working days before the date of the meeting so that these can be copied to all parties.

The chair of the discipline panel will be invited to attend the appeal hearing to answer any questions.

In the case of a rehearing any witnesses called will be invited into the meeting to give evidence and be questioned.

The Chair of the appeal panel will:

- introduce those present as necessary
- explain the purpose and format of the meeting, how it will be conducted and role of the panel. If there is a full rehearing the format of a discipline meeting should be followed.
- ask the employee to present their grounds for appeal
- the panel to ask questions of the appellant.
- the panel to ask any questions of the chair of the discipline meeting if necessary.
- summarise the grounds for the appeal
- adjourn the meeting to consider the decision

The panel will consider whether to uphold or dismiss each of the grounds for appeal. The panel can decide to uphold the appeal, dismiss the appeal or lessen the penalty that was awarded at the disciplinary hearing. The panel may not increase the penalty.

The result of the appeal should be given at the end of the meeting, if possible and confirmed in writing as soon as possible and ideally within 5 working days.

There is no further right of appeal.

If the result of the appeal is to reinstate the employee who had been dismissed they will receive payment of salary for the period from the date of dismissal to the date of reinstatement.

### **13. REFERRAL TO DBS AND NATIONAL COLLEGE FOR TEACHING AND LEARNING**

It is a statutory requirement for employers to refer all cases of misconduct that have a child protection element, even where the employee resigns during an investigation to DBS.

In all cases of teacher misconduct, even where the employee resigns in circumstances where dismissal might otherwise have been considered, employers have a statutory duty to refer such cases to the National College for Teaching and Learning.

It is the responsibility of the school to inform the DBS and NCTL.

### **14. PROCEDURE TO BE FOLLOWED WHERE THE HEADTEACHER IS THE SUBJECT OF THE MISCONDUCT**

An Investigating Officer will be appointed by the Chair of Governors to carry out a full investigation of the facts and make a recommendation as to whether there is a case to answer, if required under the terms of reference.

The same procedure will be followed as with any other member of staff except that the Chair of Governors will replace the Headteacher in the procedure. The initial dismissal decision can be delegated to one or more governors.

## 15. APPENDICES

### Appendix A - Suspension

1. The Governing Body and the Headteacher have the authority to suspend any employee. The Chair of Governors may act on behalf of the Governing Body if such authority is delegated.
2. The Headteacher is empowered to send home an employee pending a decision to suspend which must be taken by the end of the next school day.
3. Suspension from duty is a facility to enable the allegation of misconduct to be investigated. Suspension is not regarded as a disciplinary measure nor does it represent any prejudgment of the outcome.
4. Employees may be suspended on **full pay** and the following list provides examples of when this may occur. This list is illustrative and not exhaustive:-
  - when the initial investigation reveals possible gross or very serious misconduct;
  - where serious allegations have been made and further time is required to undertake more detailed investigations into the matter;
  - in special circumstances where there are grounds for doubt as to the suitability of the employee remaining at work e.g. child protection matters;
  - where the alleged misconduct involves a potential criminal matter. This will not necessarily mean that an internal investigation is delayed until the outcome of a prosecution is known;

- where the Headteacher or the Chair of the Governing Body considers that dismissal may be warranted and requires a formal decision of the Governing Body. (e.g. where further misconduct occurs after a final warning);
  - where there are grounds for concern that evidence has been tampered with, destroyed or witnesses pressurised.
5. A decision to suspend may have to be taken quickly and will be confirmed in writing to the employee within 3 working days by the Headteacher or the Chair of the Governing Body and copies of the letter should be sent to the employee's professional association/trade union representative, if known.
  6. The letter must state:
    - the reason(s) for the suspension.
    - that the employee has the right to consult his/her professional association/trade union representative.
    - that the matter will be dealt with as quickly as possible.
    - that support is available from any employee support service available to the school and trade union.
    - that actions to prevent suspension have been considered and why they are not suitable.
  7. It is important that schools remain in contact with the employee to keep them up to date with information on general school matters.
  8. Where a Trade Union representative is suspended the full time official of the Union concerned and the LA's Head of Employee Relations should be informed by the school.
  9. If the employee to be suspended is the Headteacher, this will be carried out by the Chair of the Governing Body.
  10. Suspensions may only be ended by a decision of the Governing Body.
  11. During a period of suspension an employee will receive the full rate of normal salary, including allowances and overtime regularly received.
  12. Every effort should be made to complete any investigation as quickly as possible. The employee's suspension should be reviewed every 28 days and the employee kept informed of the progress of the case.
  13. A suspension support officer should be appointed for the individual on suspension. The suspension support officer should not have any involvement in the disciplinary investigation but their role is to provide welfare support.

## Appendix A1 - Letter Confirming Suspension

### PRIVATE AND CONFIDENTIAL

Dear

#### Confirmation of Suspension

I am writing to confirm that a decision has been made to suspend you from duty with effect from *(insert date)* whilst investigations can be undertaken into the following allegation/s:

*(insert details of the allegations that are being investigated)*

The decision to suspend you from the workplace whilst this investigation is carried out is based on the following grounds *(insert one or more from the below list)*

- *the employer has grounds to believe that the employee might deliberately cause damage if allowed to remain at the workplace, for example damage to the employer's computer network;*
- *the employee's continuing presence at work might prejudice the investigation in some way;*
- *the employee has acted in a violent way or threatened violence;*
- *the employee has been accused of bullying or harassment; or*
- *the matter under review is of a highly sensitive nature.*

Your suspension from the workplace will be reviewed on a regular basis.

During your period of suspension you will continue to receive your salary as normal. The decision to suspend you is not made because of any presumption of guilt and is not considered a disciplinary sanction.

I have enclosed a copy of the school's disciplinary procedure for your information.

You will be required to attend an investigatory interview and you will be advised of the time, date and venue. *(insert name and contact details)* has been appointed as Investigating Officer. S/he will ensure that the investigation is undertaken as quickly as possible so that this matter can be brought to a speedy conclusion. You should be contactable during your normal working hours and available to attend meetings when required. If you are not available because you are away from home on annual leave this must be booked in advance so that I am aware of the dates you are not available

*(insert the following sentence if appropriate)*

The allegation against you is potentially a case of gross misconduct which, if proven, could result in your dismissal.

You are advised to contact a recognised trade union representative or work colleague to seek advice, support and guidance. You may bring this Representative with you to the investigatory meeting. You are responsible for arranging their attendance.

*(insert the details of any employee assistance support that your school has access to.*

Your suspension support officer is *(insert name)*

This is a confidential matter and during your period of suspension you will not be permitted to visit the school or to contact or discuss the allegations with any work colleagues, students or employees other than your chosen representative either verbally or electronically. However you may contact the Investigating Officer and Suspension Support Officer. Failure to maintain confidentiality could result in disciplinary action.

Yours sincerely

*(insert name and title)*

## Appendix A2- Letter Lifting Suspension

### PRIVATE AND CONFIDENTIAL

Dear

#### Notice of Lifting Suspension

I am writing to confirm that *(insert name of investigating officer)* has completed the investigation into the allegations against you. The allegations are:-  
*(insert details of the allegations)*

Having reviewed your suspension a representative of the Governors have decided that your suspension from work should be lifted and you should return to school on *(insert date)*. You should report to *(insert name)* at *(insert time)*.

I must inform you that you are still subject to a disciplinary investigation in relation to the allegations as stated above and you will be invited to attend a hearing to consider these allegations in due course.

I should like to acknowledge the distress this period of suspension will have caused you but when an allegation arises which is potentially gross misconduct suspension is the appropriate course of action for the reasons detailed to you in the letter sent to you confirming your suspension dated *(insert date of previous letter)*.

I would remind you that this matter is of a confidential nature and it would be a potential disciplinary offence if confidentiality is not upheld.

If you have any queries about the process please contact *(insert name and contact details)*

Yours sincerely

Clerk to the governors

## Appendix B - Invitation to Investigation Meeting

### PRIVATE AND CONFIDENTIAL

Dear xxx (*insert employee name*)

#### **Disciplinary Procedure – Investigation Meeting**

I am writing to invite you to attend an investigatory meeting to be held at xxx (*insert time*) on xxx (*insert date*) in xxx (*insert venue*). I will conduct the meeting and will have xxxxxx present as a note taker.

The purpose of this meeting is to investigate the following allegations:-

*(insert date and detail of the allegation/s and what policy the individual has breached if appropriate)*

As part of my investigation I may also need to interview witnesses and obtain their accounts. Any witnesses statements gathered will be included in my investigation report.

The options open at the conclusion of my investigation and in view of the information available at that point, will be:

- To decide that the allegations are unfounded and take no further action; or
- To deal with the matter informally outside of the procedure (through day to day management and supervision, as well as training); or
- To proceed to a formal disciplinary meeting

You have the right to be accompanied at this investigatory meeting by either a Trade Union representative or work colleague. You are responsible for arranging their attendance at this meeting. If you require any reasonable adjustments to enable you to attend the meeting, please let me know and I will make the necessary arrangements.

Yours sincerely

*(Insert name)*

## Appendix C - Invitation to Disciplinary Meeting

### PRIVATE AND CONFIDENTIAL

Dear

### DISCIPLINARY MEETING

I am writing to advise you that you are required to attend a disciplinary meeting at *(insert venue)* on *(insert date)* at *(insert time)*.

At this meeting the question of disciplinary action against you will be considered in accordance with the School's Disciplinary Procedure. The allegations to be considered are:-

*Insert details of the allegations*

*If appropriate include how the actions of the employee have breached the relevant policy/procedure.*

The case will be heard by *(insert name/s)*:

The management case will be presented by *(insert name)* who will be supported by an HR Adviser and the following witness/es *(insert name/s)* will be called.

The following documents are enclosed:

The School's Disciplinary Procedure

The Investigation Report

Notes of the investigation meeting with the employee

Witness statements

*(any other documents to be enclosed as appropriate)*

Please send any documentary evidence you wish to be presented at the meeting to me at the above address to arrive no later than *(insert a date 3 working days before the date of the meeting)* This will then be copied for both parties.

You have the right to be accompanied at the hearing by a trade union representative or work colleague. You are responsible for arranging their attendance. If you require any reasonable adjustments to enable you to attend the meeting, please let me know and I will make the necessary arrangements.

Please confirm, in writing:

- that you will be attending the disciplinary hearing
- whether or not you will be accompanied by a trade union representative or work colleague and inform me of their details.
- whether or not you will be providing any documentary evidence by the date shown above
- the name/s of any witness/es you intend to call.

I would remind you that this is a matter of a confidential nature and it would be a potential disciplinary breach if confidentiality is not upheld.

The possible outcomes available at the conclusion of the meeting are:

- No case to answer
- First written warning
- Final written warning
- Dismissal with notice
- Dismissal without notice

*(include and exclude as appropriate)*

If you have any questions about the process please contact *(insert contact name and number)*.

I must remind you that should you fail to attend the meeting without a reasonable explanation the meeting may proceed in your absence.

Yours sincerely

*(insert name and title)*

## Appendix D - Agenda for Disciplinary Meeting

### Agenda for Disciplinary Meeting

1. Meeting to be held at (venue) on (date) at (time)
2. To elect a chair for the meeting.
3. To invite the Investigating Officer, Employee and representative to join the meeting.
4. To make introductions and explain the role of those present.
5. To explain how the meeting will be conducted and to read through the allegations and ask the employee whether they accept whether they have done anything wrong.
6. If the employee admits the allegations in their entirety then there may be no need for management to present the case but the panel must allow the employee to present their mitigation in response to the allegations.
7. If the employee denies the allegations (in total or part) then the investigating officer must present the management case.
  - The Investigating Officer to explain what the complaint/allegations against the employee are and outline the case.
  - any witnesses may be called, questioned and dismissed subject to recall
  - the employee may ask questions
8. Employee's presentation
  - the employee to present their case and answer any allegations made.
  - any witnesses may be called, questioned and dismissed subject to recall.
  - the Presenting Officer may ask any questions.
9. General Questioning and Discussion
  - the Chair to ask any questions and clarify any points to ensure that everything is clear and has been understood
  - the Chair to ask the employee whether there is an explanation for the alleged misconduct or whether there are any special circumstances to be taken into account (mitigation).
10. The Chair to consider whether there is a need to adjourn the meeting where new facts have emerged which need further investigation.

## 11. Summing Up

- The Chair to summarise the main points
- The Chair to ask the employee whether they have anything further to add.

12. The meeting will be adjourned for the Chair to decide on the appropriate action to take and the employee will be informed of the decision and outcome after due consideration. If the outcome cannot be delivered on the day of the hearing then the employee will be informed that they will receive the decision, in writing within 5 working days.

**Appendix E - Letter Notifying Outcome of Disciplinary Meeting (1st or Final)**

**PRIVATE AND CONFIDENTIAL**

Dear

**DISCIPLINARY MEETING**

Thank you for attending the disciplinary meeting on **(insert date)** I am writing to confirm the outcome of this meeting. The disciplinary panel concluded that you should be issued with a \*first/\*final **(\*delete as appropriate)** written warning.

The warning will be placed on your personal record but will be disregarded for disciplinary purposes after a period of \* 12 /\* 24 **(delete as appropriate 12 for first/24 for final)** months provided *(your conduct improves if appropriate)* or there is no further misconduct in this period.

You are reminded that any further instances of misconduct, or insufficient improvement of your conduct you may be subject to further discipline action being taken which may ultimately result in a \*final warning/ or \*dismissal **(delete as appropriate)**

You have the right of appeal against this decision. If you wish to appeal you must submit your grounds for the appeal to the Clerk to the Governor's /School Business Manager **(use the job title of whoever the appeal will be submitted to, together with the address)**. Your appeal must be either on the grounds of abuse of the process and/or severity of sanction. You have 10 days from receiving this letter to lodge your appeal.

I would remind you that this is a matter of a confidential nature and it would be a potential disciplinary offence if confidentiality is not upheld.

Yours sincerely

**(insert name and title)**

**Appendix F - Letter Notifying Outcome of Disciplinary Meeting (Dismissal)**

**PRIVATE AND CONFIDENTIAL**

Dear

**DISCIPLINARY MEETING**

I am writing to advise you of the outcome of your disciplinary hearing which was conducted in accordance with the School's Disciplinary Procedure.

The hearing took place on ***(insert date/s)***.

The nature of the allegation/s was:

***(insert details of allegation/s)***

The case was heard by the Headteacher ***(insert name)*** or a panel of governors from the school, its members being:

***(Headteacher or panel of governors and insert name/s as appropriate)***

S/He was/They were ***(choose/delete as appropriate)*** supported by ***(insert name and job title.)***

The management case was presented by ***(insert name and job title)*** who was supported by ***(insert name and job title)***. ***(insert name of person presenting the management case)*** called the following witnesses:

***(insert names of witnesses)***

Taking each allegation in turn;

***(list each allegation separately followed by the panel's consideration and decision)***

The Headteacher/panel reached this decision after carefully considering all the evidence presented to them for the following reasons ***(insert appropriate wording including any mitigating circumstances that were presented)***

***(insert ONE of the following 3 paragraphs)***

(1). Having considered all the evidence I therefore confirm that the panel found that the allegations are substantiated, on the grounds of probability and therefore have no option but to dismiss you from the Council's/School's employ on the grounds of Gross Misconduct. Given the seriousness of the misconduct, this will be a summary dismissal.

(2). Having considered all the evidence I therefore confirm that the panel found that on the grounds of probability your conduct has not improved within the timescales set and is still unsatisfactory and therefore have no option but to dismiss you from the Council's/School's employ.

(3). Having considered all the evidence I therefore confirm that the panel found that on the grounds of probability there has been a further incident of misconduct and therefore have no option but to dismiss you from the Council's/School's employ.

***(insert the following paragraph for all cases of teacher misconduct or incompetence)***

It is a statutory requirement that your case is referred to the National College of Teaching and Leadership and arrangements will now be made for this to be done.

***(insert the following paragraph in all cases that have a Child Protection element)***

Due to the serious nature of the dismissal, your case will be referred to the Independent Safeguarding Authority (ISA). The ISA makes decisions on who should be prevented from working with children or vulnerable adults in England and Wales. The ISA will contact you directly with a decision on your referral.

You have the right to appeal against this decision in accordance with the Disciplinary Procedure (copy enclosed). To exercise your right of appeal by writing to the Clerk to the Governor's/School Business Manager (***insert address***) within ten working days of your receipt of this letter, i.e. (***insert date***). If you choose to appeal, you should clearly state the basis of your appeal which must be either on the grounds of an abuse of the process and/or severity of sanction.

I would remind you that this is a matter of a confidential nature and it would be a potential disciplinary offence if confidentiality is not upheld.

***(insert the following two paragraphs if applicable)***

You are required to return any school property e.g. laptop, keys, and paperwork you may have in your possession to (***insert name and contact details***).

We will need to arrange for you to collect your belongings held at the school. Please contact (***insert contact details***) to arrange this.

If you have any questions about the process please contact me on the above number.

Yours sincerely

***(insert name and title)***

.....  
.....

**PRIVATE AND CONFIDENTIAL**

Dear

**DISCIPLINARY APPEAL HEARING**

You have appealed against your \*dismissal /\*first warning/ \*final warning (**\*delete as appropriate**) on (**insert date of disciplinary hearing**) confirmed to you in writing on (**insert date of letter**).

Your appeal will be heard at (**insert venue**) on (**insert date**) at (**insert time**) by an appeals panel (**insert names**). (**If dismissal this will be members of the governing body**).

The panel will consider the grounds for your appeal and the possible consequences of the appeal might be:

- that your appeal is dismissed
- that your appeal is upheld
- that the panel decide to lessen the disciplinary sanction awarded at the previous hearing.

The following documents are enclosed:

- a copy of the School's Disciplinary Procedure
  - a copy of the paperwork and minutes from the previous hearing
- (insert any other documentation which is included)**

Please send me any additional documentary evidence at the above address by (**insert a date 5 working days before the date of the meeting**). This will be copied to both parties.

You have the right to be accompanied at the hearing by a trade union representative or a work based colleague and you are responsible for arranging their attendance.

Please confirm, in writing:

- that you will be attending the appeal hearing
- whether or not you will be accompanied by a trade union representative or work colleague and let me know their name
- whether or not you will be providing any documentary evidence by the date shown above
- the name/s of any witness/es you intend to call.

I would remind you that this is a matter of a confidential nature and it would be a potential disciplinary offence if confidentiality is not upheld.

The decision of this appeal hearing is final and there is no further right of appeal.

If you have any questions about the process please contact me on (**insert contact number**).

Yours sincerely

Clerk to the Governing Body

## Appendix H - Agenda for Disciplinary Appeal Hearing

### Agenda for Disciplinary Appeal Hearing

*Meeting to be held at (venue) on (date) at (time)*

1. The panel must elect a Chair.
2. The Chair to make introductions and explain the purpose of the meeting and how it will be conducted.
3. To ask the employee to present their grounds of appeal and their case.
4. The panel to ask any questions of the employee.
5. The panel to ask any questions of the chair of the discipline meeting if necessary.
6. Both parties to be given the opportunity to comment on any new evidence that has arisen during the hearing
7. To ask the employee to sum up their grounds of appeal.
8. The Chair to summarise the facts
9. The employee, their representative, chair of the discipline meeting leave the meeting to allow the panel to consider their decision.
10. The panel to consider their decision which could uphold the appeal, dismiss the appeal or lessen the sanction that was awarded at the previous hearing. The panel may not increase the penalty.
11. During the panel deliberations the chair to ensure completion of the panel rationale sheet.
12. To invite both parties back into the meeting to hear the decision which will be followed up in writing without unreasonable delay and ideally within 5 working days of the decision being made.

***(If the appeal hearing is to be a rehearing then the agenda of the discipline meeting should be followed)***

## Appendix I - Letter Notifying Outcome of Disciplinary Appeal Hearing

### PRIVATE AND CONFIDENTIAL

Dear

### DISCIPLINARY APPEAL HEARING

Thank you for attending the disciplinary appeal hearing on (*insert date*)

I am writing to inform you of the decision of the appeals panel as follows:

*(insert the full decision wording as agreed by the panel their options were:*

- *to dismiss the appeal and uphold the original decision*
- *to allow the appeal entirely*
- *reduce the sanction previously awarded, giving details*

The panel reached this decision after carefully considering all the evidence presented to them for the following reasons (*insert appropriate wording including any mitigating circumstances that were presented*)

I would remind you that this is a matter of a confidential nature and it would be a potential disciplinary offence if confidentiality is not upheld.

There is no further right of appeal

If you have any queries regarding this matter please let me know.

Yours sincerely

Clerk to the Governors