

DERBYSHIRE LA

**DISCIPLINARY
PROCEDURE FOR
SCHOOL STAFF**

**Bennerley Fields Specialist Speech
and Language College**

October 2014

Disciplinary Procedure for School Staff

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Model Disciplinary Procedure

1. Purpose

The purpose of the disciplinary procedure is to consider how to resolve a matter related to the capability or conduct of an employee through agreed and recognised channels which ensure that all concerned are aware of their rights and obligations.

2. Introduction

- 2.1 This disciplinary procedure has been determined by the Governing Body of Bennerley Fields Specialist Speech and Language College in accordance with the advice of Derbyshire County Council consistent with the requirements of National and Local Conditions of Service and the Articles and Instruments of Government and the Advisory, Conciliation and Arbitration Service (ACAS). It applies to all staff employed within the staffing complement of the school.
- 2.2 At any stage throughout the disciplinary procedure an employee is entitled to consult and be represented by his/her Professional Association or Trade Union, colleague or friend.
- 2.3 The Authority's officers and advisers have no direct role in resolving any disciplinary matters - this is the responsibility of the Governing Body. The Governing Body of the school will seek advice as necessary at the informal stages of the procedure and the Strategic Director of the Children and Younger Adults Department has a right to be represented at any meeting where dismissal is being considered and will always be represented to advise the Governing Body at its meetings to consider appeals against the decisions of the Disciplinary Committee.
- 2.4 The responsibility for managing the disciplinary process within the school will rest with the Headteacher who will be the only employee empowered to issue warnings, deal with other associated action or take initial dismissal decisions in line with the Governing Body's implementation of the School Staffing Regulations 2003 (See Appendix 4). The Governing Body may also take disciplinary action and in any case will always be responsible for disciplinary action involving the Headteacher.
- 2.5 As a general rule before the formal disciplinary process is invoked and depending on the nature of the unsatisfactory conduct or performance, concern about the work of an employee will be expressed in the normal course of supervision. Appropriate time for improvement should be allowed and, as appropriate, guidance, supervision and training provided.
- 2.6 The following steps should be followed in sequence to seek to deal formally with a potential disciplinary matter:

3. Counselling

It may be necessary for Headteachers to draw to an employee's attention, concern about the manner in which they are carrying out their duties and their general

behaviour. It is anticipated that informal counselling will be the first step through which such concerns are addressed. Where this does not achieve the desired effect, the next stage would be formal management counselling. Such counselling is not considered to be within the terms of the disciplinary procedure, but any employees aggrieved by this process shall have the right to implement the grievance procedure.

4 Suspension

- 4.1 Where it appears that an employee may be guilty of gross misconduct or for any urgent cause for which it is considered that an exclusion from the school premises seems necessary, the Headteacher or the Governing Body has the power to suspend an employee on normal pay. **In law suspension cannot be assumed to be a neutral act but it should be intended as a neutral act, that implies no guilt and this should be made clear.**

Suspension is traumatic for the member of staff, their family, and their colleagues as well as pupils and their parents. It is, therefore, important to have, and follow, an appropriate procedure to ensure that suspension does not occur unnecessarily and to avoid potential challenges when it is believed to be appropriate and takes place.

The Human Resources Service Partner, Children and Younger Adults Department (CAYA) must be informed immediately if suspension occurs and it is strongly recommended that advice is sought when considering the suspension of a staff member (refer to full advice and guidance on suspension contained in Section 4 - Advice & Guidance).

It is important to consider whether there are any suitable alternatives to suspension. It may still be possible for the employee to undertake duties other than their normal role.

- 4.2 Other than for gross misconduct, suspension should only be used:

- Where a child or children are at risk.
- Where an allegation of misconduct has been made against the member of staff and it is judged that their continued presence in the workplace may impede or prejudice the investigation.
- Where an allegation of misconduct has been made against a member of staff the nature of which could involve potential risks to pupils or other employees.
- Where other relevant circumstances arise, such as Formal Competence Procedures and evidence is available that no teaching or learning is taking place, and which will lead to a recommendation to the Governing Body for the member of staff to be dismissed.

In cases of allegations of potential child abuse, if a decision not to suspend is taken, this should be clearly documented with reasons and the LA and Chair of Governors informed. Headteachers should be aware of Derbyshire's Child Protection and other LA Procedures when dealing with allegations against members of staff.

- 4.3 Where an employee is suspended by the Headteacher/Governing Body during the investigation of a complaint or allegation and throughout the period of suspension the employee shall receive normal pay. If an employee is subsequently dismissed he/she shall not be entitled to wages (or salary) other than the sum (if any) due up to the date of dismissal, but he/she shall be allowed to retain any sum already paid to him/her during the period of his/her suspension. If he/she is reinstated there shall be full restitution of earnings.
- 4.4 Only the Governing Body through the Disciplinary Committee, and in accordance with the procedures set out below, may end a suspension. It is recognised that sometimes there may be a recommendation that a suspension be lifted without the matter ever having being referred for a disciplinary hearing. Please refer to the guidance on lifting suspensions, page 22.

5. Management Investigation

Except in cases where the Headteacher is the subject of possible disciplinary action, the Headteacher or appropriate member of Senior Leadership Team shall act as the investigating officer. In certain cases where, for example, the Headteacher is likely to be a key witness at the Hearing(s), the Governing Body may elect to nominate another individual to act as the investigating officer.

The investigating officer will be required to collect statements in writing from any witness who may be called to support their statements orally at any subsequent disciplinary hearing.

- a) The Investigating Officer will formally write to all those individuals who are required to attend the investigation interview, informing them of the nature of the events being investigated (including the date and time of any specific incident) the date, time and venue for the interview, and giving them the opportunity to be accompanied by a Trade Union/Professional Association representative, friend or colleague. The employee should be informed in writing that an allegation of misconduct which requires investigation has been received and that a investigatory officer has been designated.
- b) If there is a specific allegation being made against an employee, then that individual should be made fully aware of the allegation prior to the Investigation interview in order that s/he may prepare a response to the allegation. The employee must also be informed of the requirement to co-operate with the investigation, such as attending the investigatory interview.

The Investigating Officer will write to the employee being investigated to confirm the findings of the Management Investigation. In most cases there will be one of two outcomes:

- i. Complete exoneration from the allegations made. In this case a letter should be sent to all employees involved thanking them for their co-operation throughout the Management Investigation process.

- ii. A decision that disciplinary action should be taken.

In which case the employee should be advised that disciplinary action is going to be taken, and that s/he will be notified of the date, time and venue of the disciplinary hearing in the near future. A copy of the disciplinary procedure must be provided to the employee.

Please refer to Appendix 3 - Information, Advice and Guidance, section 5.

6. **Formal Disciplinary Procedure**

Where the Headteacher considers that the conduct or capability of an employee may warrant disciplinary action, the Headteacher will call the employee to a hearing to determine whether or not to give a formal warning. This might be after the matter had been dealt with initially through the counselling mechanism identified above or following a management investigation conducted by a senior member of staff or the Headteacher. The Headteacher considers whether:

- a) the seriousness of the offence merits it; or
- b) previous formal warning or warnings have been effective; or
- c) there is a further unconnected event of unsatisfactory work or misconduct.

Hearings or interviews at which disciplinary action is to be considered shall occur as soon as possible after the event or action which has caused concern and only after an investigation has taken place and the employee has been given ten working days notice in writing. The employee will be informed of:

- the conduct which appears to justify disciplinary action, and the source of complaint, unless exceptionally, there are particular stated reasons why they should not be named.
- the right of the employee to be accompanied by a representative of a recognised Trade Union, Professional Association or friend.

Copies of all documents to be relied upon shall be supplied to the Committee and all parties concerned at least 5 working days prior to the date of the hearing.

At the hearing, the Headteacher or Disciplinary Committee shall consider only the facts presented in the presence of the employee and have the power to deal with the case in one of the following ways:

- i. Complete exoneration and reinstatement (where employee has been suspended).
- ii. Reinstatement (where employee has been suspended).

- iii. Granting an opportunity, following request from the employee, to resign as an alternative to dismissal. (Employees should be strongly advised to consult with their trade union or professional association representative if considering making such a request).
- iv. Reprimand or warnings.
- v. Granting an opportunity to accept a reduction in position or status as an alternative to dismissal.
- vi. Granting, in appropriate cases, opportunity to obtain medical advice or treatment before any further decision is taken.
- vii. Dismissal.

The decision of the Disciplinary Committee will be communicated to the employee in writing within five working days.

6.1 Sanction

If the Headteacher has heard the case and determined that, on the balance of probability, the allegation against the employee has been upheld, then the Headteacher may deliver one of the following sanctions (also depending on the level of delegation of disciplinary decisions determined by the Governing Body – see below):

- An oral warning
- An oral warning confirmed in writing
- A written warning
- A final written warning
- That the employee should be dismissed.

There is no appeal in the event of an oral warning not confirmed in writing.

The Governing Body will determine in its delegation of disciplinary matters whether the Headteacher is empowered to make initial dismissal decisions. Where this is not the case, for allegations of serious misconduct or in other appropriate circumstances, the matter will be referred for consideration to a Disciplinary Committee of the Governing Body. The Committee will comprise of three Governors and will decide whether or not to issue a warning, which may be written or a final written warning or, in very serious cases, a request to the LA to issue notice of dismissal. The Strategic Director of the Children and Younger Adults Department or his/her representative have a right to be involved in all meetings where dismissal is considered and may act in an advisory capacity to the Committee.

A formal warning or resolution to request the issue of a notice of dismissal will:-

- a) be in writing or confirmed in writing by the Headteacher or Clerk to the Governors on behalf of the Governing Body as appropriate;

- b) be delivered by hand or special delivery;
- c) in the case of formal warnings explain that they will be recorded in the employee's personal file;
- d) explain the reasons for the disciplinary action;
- e) explain the right of appeal;
- f) be copied to the employee's Trade Union or Professional Association representative.

The Headteacher will maintain a Register of Disciplinary Action which will contain a copy of any written warning issued to employees.

6.2 Expiry of Disciplinary Action and Expunging of Records

Should any disciplinary action be withdrawn or, as a result of a hearing, a decision is made to take no action, any written reference to the action shall be expunged from the employee's personal file and Register of Disciplinary Action immediately.

Where an employee completes a period of 12 months satisfactory service, or longer period if specified when the warning was issued, following a formal warning, the warning will be expunged from the Register of Disciplinary Action and he/she will be notified to that effect. Details of spent warnings shall remain in personal files to be utilised for reference purposes in line with the DCSF guidance, on safer recruitment. In exceptional circumstances when the disciplinary action was as a result of unprofessional conduct against a pupil, or when a Headteacher/Governing Body considers that a disciplinary warning should not be automatically expunged, this should be made clear when the warning is issued. Any arrangements for a review of the warning should be made clear. The employee should have the right to make representations for its expunction and to appeal any decision not to expunge a warning.

7. Appeals

In the event of an appeal against the decision of a Headteacher or the Disciplinary Committee, the complainant should do so in writing, following the issue of a written formal warning or a decision of the Disciplinary Committee. The complainant must set out the grounds of the appeal within ten working days of the relevant decision. The matter will be referred to the Disciplinary Committee where the Headteacher has issued the initial sanction, and to the Appeals Committee or full Governing Body (excluding all members of the Disciplinary Committee and any other Governors involved in the case), where that Committee has made the decision that is now the subject of the appeal. The meeting will be held within fifteen working days (or by mutual agreement as soon as practicable thereafter) of the receipt of the formal notice of appeal. The employee will be informed of the place, date, time and purpose of the meeting.

- 7.1 The employee will be entitled to attend before the Governing Body with his/her Professional Association/Trade Union representative or friend if he/she so wishes to present his/her appeal.
- 7.2 The Strategic Director for Children and Younger Adults Department or his/her representative shall be entitled to attend the meeting for the purpose of offering advice to the Governing Body.
- 7.3 The Governing Body may uphold the appeal or confirm the original decision and may decide to impose a lesser penalty, but cannot impose a more severe penalty.
- 7.4 An appeal decision of the Governing Body will be final.
- 7.5 Attached is a procedure to be followed by the Disciplinary Committee and the Appeals Committee of the Governing Body.

8. Dismissal

In respect of an employee working solely at the school, the Authority is under a duty to issue a notice of dismissal, within 14 days of the Governing Body notifying the Authority of their decision. For a person not employed solely to work at the school, the Authority will be required to withdraw that person from work at that particular school.

Once a decision has been taken to dismiss an employee the Authority is responsible for providing a written statement of reasons for the dismissal as required by law. It follows that that reason must be clearly set out in the Governing Body's notification to the Authority.

9. Trade Union and Professional Association Officials

No disciplinary action shall be taken against an official of a recognised Trade Union or Professional Association who is an employee until the circumstances have been discussed with a full-time or designated district or area official of the Trade Union or Professional Association concerned.

Appendix 1

Disciplinary Rules

In accordance with the requirements of the Employment Protection (Consolidation) Act as amended by the Trade Union Reform and Employment Rights Act 1993, and the ACAS Code of Practice "Disciplinary Practice and Procedure in Employment" this is to notify you of the school's disciplinary rules.

(a) Gross Misconduct

Gross Misconduct is generally seen as misconduct serious enough to destroy the contract between the employer and employee making any further working relationship and trust impossible. An allegation of gross misconduct may therefore lead to immediate suspension from work, pending investigation. If, after due consideration, the allegations are substantiated, the employee will be dismissed without notice unless there are any mitigating circumstances. Examples of gross misconduct relating to all employees include:

- i. Unauthorised removal, possession or theft of property belonging to the school, a fellow employee, pupil, or member of the public.
- ii. Acts of violence including the physical assault of a fellow employee, pupil or member of the public.
- iii. Falsification of qualifications or information which are a statutory or essential requirement of employment or which result in additional remuneration.
- iv. Sexual misconduct at work.
- v. Deliberate damage to school property.
- vi. Deliberate falsification of records attendance sheets, bonus sheets, subsistence and expense claims etc.
- vii. Disclosure of confidential matters to public sources, where not required for industrial relations purposes; (including disclosure to the third party, without authority of personal confidential information acquired during the course of employment at the school) or the unauthorised use or disclosure of any computer-held or computer-generated information from which a living individual can be identified.
- viii. Acceptance of bribes or other corrupt practices.
- ix. Other offences of dishonesty.
- x. Conviction for a criminal offence unconnected with the school but which removes an employee's acceptability to remain in employment, eg sexual abuse of a child, drugs offence etc.

- xi. Serious breaches of safety rules including deliberate damage to, or misappropriation of, safety equipment.
- xii. Serious negligence, which causes or might cause unacceptable loss, damage or injury.
- xiii. Holding unauthorised paid employment during paid school time.
- xiv. Failure to meet the registration requirements of a statutory regulatory body.
- xv. Serious incapacity through alcohol or being under the influence of illegal drugs*.
- xvi. Serious acts of insubordination.
- xvii. Bullying, intimidation, victimisation or other forms of harassment.
- xviii. Downloading or distributing pornographic, obscene, offensive or illegal material.
- xix. Serious maladministration of statutory tests and examinations.

(b) Other Misconduct

The great majority of breaches of disciplinary rules will not be sufficiently serious to warrant dismissal without previous warning. Examples of offences which will not normally result in dismissal without previous warning are listed below and relate to all employees.

- i. Refusal to comply with the reasonable and lawful instructions of management.
- ii. Negligence in the performance of duties.
- iii. Negligence in the administration of statutory tests and examinations.
- iv. Failure to attend work regularly and punctually during agreed working hours; failure to report inability to attend work due to illness for any other reason, promptly, and in accordance with the school's procedures; unreasonably prolonging absence by neglecting to act on medical advice.
- v. Absenteeism and leaving the workplace without permission.
- vi. Misconduct in relationships with other members of staff, pupils, or members of the public, to include conduct which is not in accordance with the principles of mutual trust, respect and courtesy.
- vii. Swearing or abuse of members of staff, pupils, or members of the public.

* Other than where the case would be more appropriately dealt with under separate procedures.

- viii. Being under the influence of drink or other intoxicants sufficient to affect work performance.
- ix. Non-compliance with sickness pay scheme.
- x. Falsification of qualifications or information other than those which are a statutory requirement for employment.
- xi. Abuse of position – using an official position for private advance or for the private advantage of some other person.
- xii. Criminal offences – where the offence/alleged offence has employment implications but is not sufficiently serious to constitute gross misconduct.
- xiii. Employees whose posts are subject to Criminal Records Bureau clearance – failure to notify line management of any activity likely to result in subsequent criminal investigation, conviction or police caution being served.
- xiv. Damage to school property – deliberate damage, misuse, or use without authority of the property of the school, fellow employees, or other members of school community.
- xv. Discrimination – against a member of the public or colleagues on grounds of sex, sexual orientation, marital status, age, race, creed, colour, ethnic or national origin or disability.
- xvi. Rules – failure to observe the provisions of the school and relevant Local Authority, Financial Regulations, Policies, Code of Conduct and other applicable rules.
- xvii. Safety – failure to act in accordance with applicable Health and Safety Policies; any act or omission on the part of the employee which endangers the health or safety of themselves, other employees, school users or members of the public.

The list of Disciplinary Rules is not designed to be an exhaustive list but should provide an indication of the standards required.

Appendix 2a

Procedure of Disciplinary Committee

1. The Employee shall be given at least ten working days'* notice in writing of the date, time and place of the hearing and shall be entitled to be represented by his/her Trade Union or Professional Association representative or friend and shall be able to call witnesses and present documents relevant to his/her defence.
2. Copies of all documents to be relied upon at the hearing shall be submitted to the Committee and the parties concerned at least 5 working days prior to the date of the hearing.
3. The Investigating Officer, Headteacher, nominated Governor or representative to put the case in the presence of the employee and to call witnesses.
4. The employee to have the opportunity to ask questions of the Investigating Officer, Headteacher, nominated Governor or representative on the evidence given by him/her and any witness whom he/she may call.
5. The members of the Committee to have the opportunity to ask questions of the Investigating Officer, Headteacher, nominated Governor or representative and witnesses.
6. The employee to put his/her case in the presence of the Investigating Officer, Headteacher nominated Governor or representative and to call such witnesses as he/she wishes.
7. The Investigating Officer, Headteacher, nominated Governor or representative to have the opportunity to ask questions of the employee and his/her witnesses.
8. The Committee to have the opportunity to ask questions of the employee and his/her witnesses.
9. All witnesses will withdraw at this point.
10. The Investigating Officer, Headteacher, nominated Governor or representative and the employee to have the opportunity to sum up their case if they so wish.
11. The Investigating Officer, Headteacher, nominated Governor or representative and the employee to withdraw.

* For the purpose of this procedure "working days" shall mean Monday to Friday excluding bank holidays and the time begins with the day of receipt but does not include the day of the hearing. Hearings need to be arranged in term time except for employees with 52 week contracts or where agreement has been reached with the employee and union representative that such an arrangement meets their agreement.

12. The Committee to deliberate, only recalling the Investigating Officer, Headteacher, nominated Governor or representative and the employee to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return notwithstanding that only one may be concerned with the point giving rise to doubt.
13. The Committee will announce its decision to the employee personally and to his/her representative, Headteacher and/or the Governors or the nominated representatives. This will be confirmed in writing within five working days.

Appendix 2b

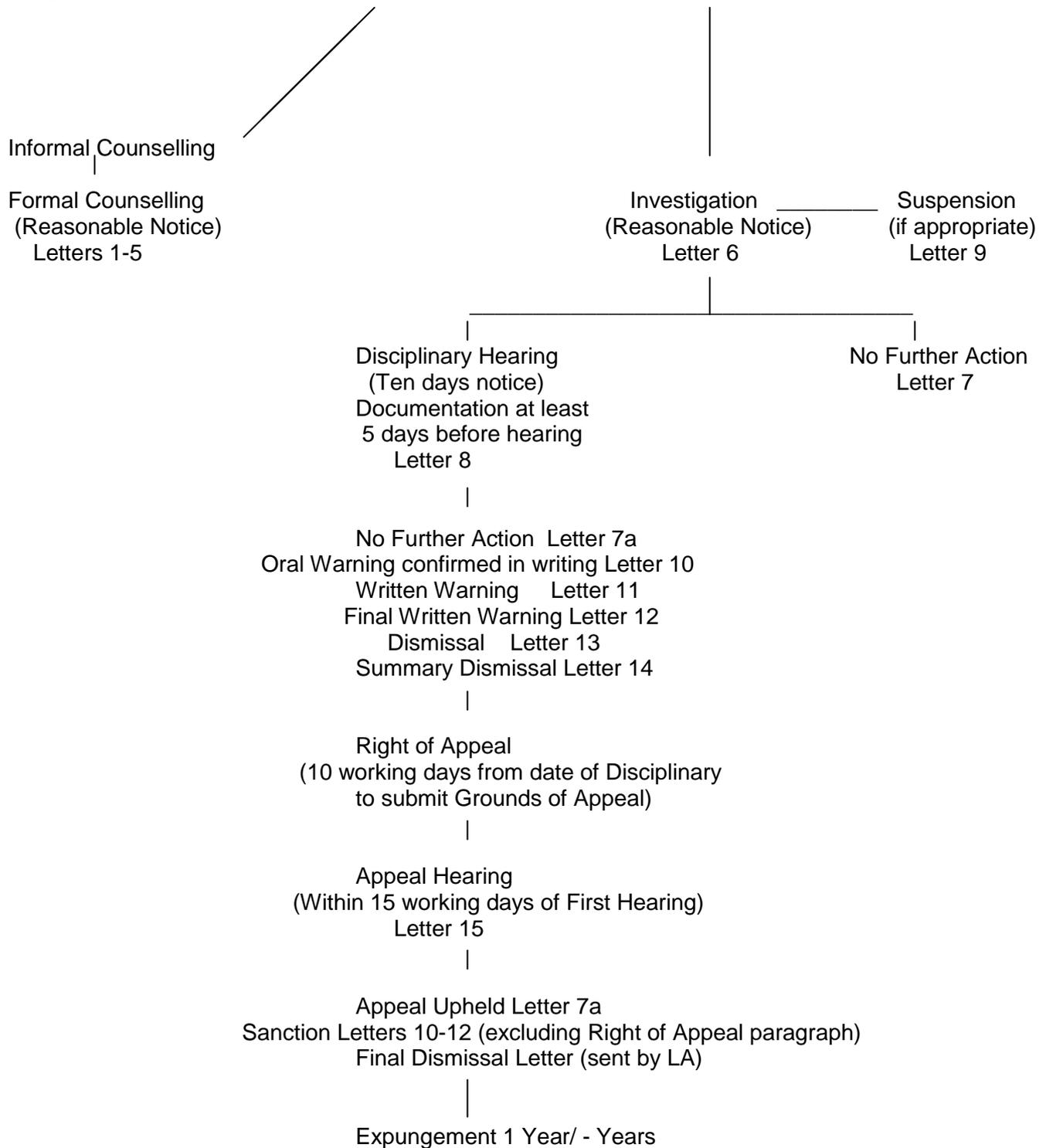
Procedure of Appeals Body

1. The Employee shall be given at least ten working days* to submit the grounds for an appeal, in writing, from the receipt of written confirmation of the decision of the Headteacher or Disciplinary Committee.
2. The Appeals Body should convene within 15 working days of receiving the grounds of appeal or as soon as is practicable. The employee shall be given at least 10 working days' notice in writing of the time, place of the hearing and shall be entitled to be represented by his/her Trade Union or Professional Association representative or friend and shall be able to call witnesses and present documents relevant to his/her case.
3. Copies of all documents to be relied upon at the hearing shall be submitted to the Appeals Body and the parties concerned at least 5 working days prior to the date of the hearing.
4. The employee to put his/her case for appealing the outcome of the Disciplinary Hearing in the presence of the Investigating Officer, Headteacher, nominated Governor or representative and to call such witnesses as he/she wishes.
5. The Investigating Officer, Headteacher, nominated Governor or representative to have the opportunity to ask questions of the employee and his/her witnesses.
6. The members of the Appeals Body to have the opportunity to ask questions of the employee and his/her witnesses.
7. The Investigating Officer, Headteacher, nominated Governor or representative to put his/her case in the presence of the employee and his/her witnesses.
8. The employee to have the opportunity to ask questions of the Investigating Officer, Headteacher, nominated Governor or representative and his/her witnesses.
9. The members of the Appeals Body to have the opportunity to ask questions of the Headteacher and his/her witnesses.
10. All witnesses will withdraw at this point.
11. The employee to have the opportunity to sum up his/her case if they so wish.
12. The Investigating Officer, Headteacher, nominated Governor or representative to have the opportunity to sum up their case if they so wish.

* For the purpose of this procedure "working days" shall mean Monday to Friday excluding bank holidays and the time begins with the day of receipt but does not include the day of the hearing. Hearings need to be arranged in term time except for employees with 52 week contracts or where agreement has been reached with the employee and union representative that such an arrangement meets their agreement.

Appendix 2c

DISCIPLINARY PROCEDURE TIMELINES/SAMPLE LETTERS Allegation of Misconduct



INFORMATION, ADVICE AND GUIDANCE

Disciplinary Procedures

1. Purpose

The first part of this document sets out a model Disciplinary Procedure which is recommended for adoption by Governing Bodies in line with their powers under Local Management. It forms the basis upon which the Authority will best be able to offer support. The purpose of this section is to give guidance to Governing Bodies in respect of disciplinary matters.

A disciplinary case results from an employee's conduct at work. Separate procedures are recommended to address issues of competence or absence from work. However some incidents may be considered to be so serious as to merit direct application of the disciplinary procedure.

2. Introduction

2.1 General

Governing Bodies of schools with delegated powers have the responsibility for determining arrangements to deal with disciplinary matters. The Governing Body is required to establish a disciplinary procedure and make it known to employees at the school.

A disciplinary procedure helps to ensure that necessary standards are maintained. It provides a fair and consistent means of taking corrective action in a situation where an employee's standard of job performance, conduct, or cooperation fails to meet or falls below expectations.

Disciplinary matters can be a source of potential industrial relations difficulties within a school and need to be handled fairly, consistently and with sensitivity.

A Governing Body wishing to introduce a modified or different procedure would need to consult with the relevant Trade Unions/Professional Associations any variation from the model proposed. The Human Resources Service Partner, Children and Younger Adults Department (CAYA) or representative will offer advice to the Governing Body in respect of such changes. Where Governing Bodies take advice from the Local Authority and follow the appropriate policy the school will be supported in responding to any claim at an employment tribunal. Where Governing Bodies have not followed advice from Human Resources, the cost of any financial award against the school may not be met by the Local Authority.

The disciplinary procedure must be issued as part of the Section 1 Statement on taking up an appointment.

2.2 Disciplinary Rules

Under the terms of the Employment Protection (Consolidation) Act 1978, as amended by the Trade Union Reform & Employment Rights Act 1993, Employers are required to provide employees with a written statement of the main terms and conditions of their employment. Such statements must contain details of disciplinary rules and procedures applicable to them. Disciplinary Rules should define standards, indicating clearly the level at which transgression would constitute MISCONDUCT, or GROSS MISCONDUCT. Rules should be non-discriminatory, objective, easy to understand, and be seen to be reasonable and just.

Disciplinary Rules should be reviewed from time to time to ensure that they are still valid.

Job Descriptions constitute rules that set a framework of tasks and duties against which standards of work performance can be assessed. It is therefore essential that Job Descriptions are well defined, structured, and drawn up for every post within the School. Job Descriptions should, therefore, be signed by the postholder, indicating acceptance of the requirements of the job.

An example of a list of Disciplinary Rules is attached at Appendix 1

2.3 Developing Disciplinary Procedures

The importance of complying with the correct procedure cannot be over-emphasised, particularly if the consequences of decisions result in application to an industrial tribunal.

Governors are also reminded that failure to comply with the provisions of the ACAS Code of Practice might lead to a successful claim of Unfair dismissal, and the Governing Body will be the respondent at Industrial Tribunals in such cases.

ACAS has produced a Code of Practice for the preparation and operation of disciplinary procedures. The Code provides that a disciplinary procedure should:-

- a) be in writing;
- b) specify to whom it applies;
- c) provide for matters to be dealt with quickly;
- d) indicate disciplinary actions which may be taken;
- e) specify the levels of management which have the authority to take the various forms of disciplinary action;
- f) provide for individuals to be informed of the complaints against them and to be given an opportunity to state their case before decisions are reached;
- g) give individuals the right to be accompanied by a Trade Union/Professional Association representative or friend of their choice;
- h) ensure that, except for gross misconduct, no employees are dismissed for a first breach of discipline;

- i) ensure that disciplinary action is not taken until the case has been carefully investigated;
- j) ensure that individuals are given an explanation for any penalty imposed;
- k) provide a right of appeal and specify the procedure to be followed.

Set out in the first part of this document is a model disciplinary procedure for consideration by Governors based on existing good practice. It contains the main principles embodied in current national and local conditions of service and the ACAS (Advisory, Conciliation and Arbitration Service) Code of Practice.

The Governing Body and Headteacher will wish to ensure that all staff fully understand the disciplinary procedure and the particular role and responsibilities which they and the Professional Associations and Trade Unions have in its application.

The School's disciplinary procedure should apply to all employees.

Appendices 2a and 2b set out a recommended procedure for the Disciplinary, and Appeal Committees.

Governors' attention is drawn to the information on dismissal which is detailed on page 29 and in the Model Disciplinary Procedure in Section 6 (i) to (vii). Guidance and advice will be provided by the Human Resources Service Partner (CAYA) or representative.

3. Management Counselling

In every case where a suspicion or allegation of misconduct by an employee comes to the Headteacher's attention, consideration should be given to whether action under the school's disciplinary procedure might be appropriate and whether a management investigation should be initiated. It may be appropriate to consider action within Performance Management, Competence Procedure, or Child Protection Procedures.

It is anticipated that Informal Counselling will be the first step through which concerns (relating to the conduct of an employee) are addressed. A two way discussion between the Headteacher and staff member should be held to point out any shortcomings in conduct and to encourage improvement. Constructive criticism should place an emphasis on finding ways in which the employee can remedy and shortcomings. The Headteacher should listen to any explanation put forward by the employee. It is the Headteacher's responsibility to clarify the areas of concern and the required standards, appropriate action to meet the required standard should be agreed and a review date set at which to assess progress. Where appropriate the Headteacher should offer training and any other relevant support in order to assist the employee to improve. A brief note of the Informal Counselling discussion, along with the details of action taken, should be kept and placed on the employee's personal file. While not an agreed document, a copy of the file note should be sent to the individual for information.

Where the above has failed to achieve a desired improvement in an employee's job performance or conduct the next stage in the Counselling process should be Formal Management Counselling. In cases where the employee's conduct is giving serious concern, the Headteacher may conduct a management investigation at this stage to determine whether further, formal, counselling may be appropriate or a disciplinary procedure needs to be invoked. The objective of Formal Counselling is to identify any underlying causes for below standard conduct and to agree with the employee what action is necessary for the employee to meet the required standards. The employee should be informed in writing of the requirement to attend a Formal Counselling Interview at a specific time and place and that s/he may, if so desired, have a representative of their choice to support them. The letter should make it clear to the employee that the Formal Counselling Process does not constitute part of the Formal Disciplinary Procedure, it is a reasonable and lawful instruction for an employee to attend an interview and it is not optional. The Formal Counselling process should be a two way discussion. The Headteacher should state the nature of the individual's conduct they consider to be below standard and aim to identify the cause of the problem by questioning and discussion. At the conclusion of the discussion if the Headteacher is still of the view that the employee's conduct is below the required standard, it is the Headteacher's responsibility to clarify the areas of concern, establish with the employee any action necessary to assist them in meeting the required standard and a review date at which to assess progress. After the interview the Headteacher will confirm in writing to the employee, with a copy to the personal file, the outcome of the meeting and the mutually agreed action plan (if appropriate) and progress review date. If relevant, this should include any details of training and specialist help/counselling sessions also agreed.

Throughout the review period the Headteacher will monitor the progress of the employee towards achieving the expected standards. Management Counselling may often be more satisfactory for resolving problems than a disciplinary interview, especially for staff who have recently joined the school, or have otherwise a record of long and satisfactory service at the school. If however during the counselling meeting, it becomes obvious that the matter is more serious, the discussion should be adjourned and the Headteacher should make it clear that the matter will be pursued under the formal disciplinary procedure.

At the end of the review period a further interview should be arranged to discuss progress. If the employee has reached a satisfactory standard no further action is necessary. If the employee has made insufficient progress towards achieving the required standards then the review date may be extended. If the employee has made no progress towards achieving the required standard without a relevant and acceptable reason the Headteacher should then advise the employee that their failure to improve the specific standard may lead to the implementation of the formal disciplinary procedure. In all cases the employee should be informed in writing with a copy to their personal file.

4. Suspension

4.1 Introduction

Suspension is traumatic for the member of staff, their family, and their colleagues as well as pupils and their parents. It is, therefore, important to have, and follow, an appropriate procedure to ensure that suspension does not occur unnecessarily and to avoid potential challenges when it is believed to be appropriate and takes place.

In all cases where a member of staff is to be suspended the following process must, therefore, be followed:

4.2 Reasons for Suspension

A member of staff may be suspended from duty in the following circumstances:

- Where a child or children are at risk.
- Where an allegation of gross misconduct has been made against the member of staff and dismissal is possible.
- Where an allegation of misconduct has been made against the member of staff and it is judged that their continued presence in the workplace may impede or prejudice the investigation.
- Where an allegation of misconduct has been made against a member of staff the nature of which could involve potential risks to pupils or other employees.
- Where other relevant circumstances arise, such as Formal Competence Procedures and evidence is available that no teaching or learning is taking place, and which will lead to a recommendation to the Governing Body for the member of staff to be dismissed.

In some circumstances, for example where there is a clearly vexatious allegation made against a member of staff in a school, a different approach could be considered. To suspend a member of staff following an allegation of this nature may be unnecessary and damaging. In these circumstances the Headteacher should seek advice from the LA and consider the weight and balance of the circumstances and evidence available before making any decision.

In cases of allegations of potential child abuse, if a decision not to suspend is taken, this should be clearly documented with reasons and the LA and Chair of Governors informed. Headteachers should be aware of Derbyshire's Child Protection and other LA Procedures when dealing with allegations against members of staff.

4.3 Procedure for Suspension

Any decision to suspend a member of staff can only be made by the Headteacher or Chair of Governors following consultation with the Human Resources Service Partner (CAYA). **Suspension should only occur when all other alternatives have been considered.** The Chair of the Governors should be informed of any actions taken by the Headteacher.

The absence of advice from the Human Resources Service Partner (CAYA) does not absolve the Headteacher from the responsibilities to make a decision, neither does the absence of the Headteacher prevent others from doing so.

- The suspension must be carried out face to face with the member of staff concerned at a specifically convened meeting. The member of staff should be offered the opportunity to be accompanied, usually by their trade union representative, at the meeting and the Headteacher or Chair of Governors may be accompanied by a representative from the LA. In rare circumstances, for instance where a member of staff is absent, it may be necessary to write notify of a suspension. However, it would normally be preferable to wait until the member of staff returns.
- The meeting must be handled sensitively. The member of staff should be informed that an allegation has been made against them and that they are being suspended as a precautionary measure pending a full investigation of the allegation. Also that the suspension is intended as a neutral act (**in law suspension cannot be assumed to be neutral act**), implies no guilt, and will be on normal contractual pay.
- The member of staff should be given as much information, including reasons for their suspension, as is consistent with not interfering with or prejudicing the investigation of the allegation. The LA will advise on this, in liaison with other Child Protection agencies.
- The member of staff should be assured that they will remain an employee of the County Council and the School. The member of staff should also be informed that they will be required to attend an investigation interview and will be given the opportunity to state their version of events and any other information they think relevant. In cases of allegations which relate to child protection this interview will normally be conducted by the Police.
- The member of staff should be advised to seek advice and assistance from their professional association or trade union. A member of staff who is not a member of a professional association or trade union may seek advice from and be assisted by a colleague or 'friend'.
- The member of staff should be offered a Contact Officer, normally from outside their line management and usually from the LA, who can offer help, support and guidance during their suspension and subsequently, if necessary and appropriate. Guidance on the role of the Contact Officer is included as Appendix 5. Where there is a need to suspend a member of staff on a Friday or immediately before a holiday period, special consideration should be given to the support arrangements.
- It should be explained to the member of staff that their suspension will be on normal pay and that they will be required to be contactable during their suspension. Also, that in order not to prejudice the objectivity of the investigation, they will not be permitted to attend the workplace or contact any colleagues or other staff without the prior permission of, and agreement of

arrangements with, the Headteacher. It is recognised that there may be particular reasons why the employee needs to contact certain other staff but it is important that this is cleared with the Headteacher as once contact is made, it is very difficult to ensure and verify that no discussion in relation to the reason for the suspension has taken place.

- The member of staff should be informed that their suspension will be confirmed in writing, that the period of suspension will be kept under review, with a formal review after one month, and that they will be kept informed of the progress of the investigation. Wherever possible written confirmation should be prepared and handed to the individual at, or provided as soon as possible after, the meeting.
- The Headteacher should agree with the member of staff what their colleagues and the wider school community will be told about and the reason for their absence. This is particularly important in sensitive situations and will allay continued suspicions or doubts about the absence if the member of staff returns to work when the investigation or associated action has been concluded.
- Arrangements should be made for the member of staff to return any school or pupils books, property, or keys, and by agreed arrangement and supervision, collect any personal belongings which they might need during their suspension.

4.4 Reviews of Suspension

Following suspension an initial review of the case should take place as soon as possible and within 5 working days, with the aim of enabling the employee to continue working and minimise the length of suspension. This will provide an opportunity for the employee and/or their representative to raise any questions or challenges to the process.

Any suspension must be reviewed regularly and is subject to a formal review with the member of staff and their professional association, trade union, or other representative after one month.

The purpose of a review is to ensure that the suspension is as short as possible. It is unfair to a member of staff to delay the investigation and resolution of any issues, particularly disciplinary, arising from it.

Except in very complex circumstances where it is, or may be, unavoidable, a protracted suspension may be open to subsequent challenge.

4.5 Suspension of Headteachers

If an allegation is made against a Headteacher and they are to be suspended this should be carried out by the Chair of Governors following the same procedure as for other members of staff. If a Headteacher is suspended, the same principles will apply except that the Chair of the Governors will be responsible for the suspension as well as associated and subsequent actions. Advice will be provided to the Chair of Governors by the LA in these circumstances.

4.6 Lifting Suspensions

Suspension of any member of staff can only be lifted by the Governing Body.

This should be delegated to the Disciplinary Committee and will take the form of a meeting where a recommendation is received from the Headteacher. It is not a hearing of the case.

The Governors will be given only sufficient information for them to make a reasonable and appropriate decision, on an informed basis. The Governing Body will also need to be reassured that the health, safety and welfare of pupils can be maintained and that appropriate support is available for all concerned.

It will be important to maintain confidentiality and this should be emphasised to all of the Governors. The Governing Body will also need to agree what information can be made available to staff, parents, and the wider school community without breaching the confidentiality of the situation.

5. Management Investigation

Please refer to Appendix 4 to clarify the roles of Investigating Officer, Headteacher and Governors, depending on the school's adoption of the 2003 Staffing Regulations.

If, following management counselling consideration of further action is warranted, or in the event of an allegation being made against an employee, then a proper investigation should take place. An essential stage in the consideration of an allegation of misconduct against an employee is the formal Management Investigation. This process should have the following primary objectives:

- a) To be conducted promptly with minimal delay.
- b) To investigate the facts and circumstances relating to the alleged misconduct.
- c) To enable the employee to respond to the allegation.
- d) To be thorough enough to provide a clear balanced view upon which a fair and objective decision can be made as to the requirement for further action, based upon the balance of probabilities.

Investigating Officers should be aware that Employment Tribunals may uphold complaints of unfair dismissal due to insufficient or inadequate management investigation.

The investigation is a neutral act and does not imply the guilt of an employee nor is it part of the Formal Disciplinary Procedure. In order to protect the interests of the employee and to ensure co-operation with any investigation, colleagues should be reminded of this.

5.1 The Investigating Officer

The Investigating Officer will have sufficient authority to undertake the investigation, to recommend suspension of the employee, and to be provided with sufficient information and co-operation to enable the matter to be adequately investigated. Under normal circumstances the Investigating Officer will be the Headteacher, or a Senior Member of Staff nominated by the Headteacher.

Where it is likely the Headteacher will hear any case that is presented, it is advised that an alternative, appropriate senior staff member acts as Investigating Officer. This will provide a clear separation of roles. It is recognised that in small schools this may not be possible. Headteachers may seek the services of an LA Human Resources Officer to act as investigating officer, as this may be provided as a traded service.

In particular, where an allegation is made against the Headteacher, the Governing Body may seek assistance from the LA and request the Human Resources Service Partner (CAYA), or nominated officer, to undertake a Management Investigation on behalf of the Governing Body (see LA Model School Complaints Procedure).

5.2 Procedure

- a) The Investigating Officer will formally write to all those individuals who are required to attend the investigation interview, informing them of the nature of the events being investigated (including the date and time of any specific incident) the date, time and venue for the interview, and giving them the opportunity to be accompanied by a Trade Union/Professional Association representative, friend or colleague. There is no prescribed period of notice required for attendance at a Management Investigation interview, although Investigating Officers will need to balance the necessity to carry out a prompt investigation with reasonableness in allowing time for individuals to make arrangements to be accompanied at the interview. The employee should be informed in writing that an allegation of misconduct which requires investigation has been received and that a investigatory officer has been designated.
- b) If there is a specific allegation being made against an employee, then that individual should be made fully aware of the allegation prior to the Investigation interview in order that s/he may prepare a response to the allegation. The employee must also be informed of the requirement to co-operate with the investigation, such as attending the investigatory interview.
- c) The Investigating Officer should ensure that the venue for the interviews will be free from interruption, and that another appropriate member of staff is present to assist in taking detailed notes, and to provide corroboration of the discussions should it become necessary at a later stage.
- d) When interviewing the employee concerned, the Investigating Officer should make it clear that it is an investigatory interview to ascertain the facts surrounding an act of suspected or alleged misconduct, not a disciplinary hearing. Another appropriate member of staff or a personnel officer should

normally be present at the interview, to enable the investigating officer to focus on listening rather than note-taking, to ensure no points are missed, and to provide an additional management witness in the event of disagreement. The employee should be offered the facility of having a representative or companion present.

- e) Other people believed to have information relating to the alleged misconduct should be interviewed and written statements obtained from them, if possible.

The investigation must be adapted to the circumstances of the alleged misconduct. If, for example, allegations have been received from colleagues in respect of an employee's conduct, it will be necessary to not only interview the complainants and obtain written statements from them, but also to interview some at least of those who have not complained but who can reasonably be expected to have knowledge as to whether the allegations are justified or provide evidence.

If an allegation is received from a member of the public or other person who is not an employee, that person should be seen and invited to make a written statement setting out the details of the allegation. If any employee is thought to have witnessed the incident, or to have information about it which might be relevant to the investigation, he or she should be seen and a written statement obtained. Where there are no witnesses to an alleged incident, it may be necessary to interview those who last spoke to the staff member before the incident took place and those to whom he or she spoke immediately after it.

During the course of the investigation, notes should be taken of any interviews held. The purpose of these notes is to aid the Investigating Officer in making an informed decision in respect of the allegation.

The notes should be shared with the person interviewed to seek confirmation of their accuracy. These notes do not have to be shared with the employee under investigation at this stage. (See section 5.3 and 5.4 on witness statements).

- f) Having carried out a fair and thorough investigation, the Investigating Officer will make a considered decision based upon the balance of probabilities. What amounts to an adequate investigation will depend on the circumstances of the particular allegation of misconduct. If it is something to which the employee readily admits, the extent of the investigation may well be confined to that, or to obtaining a measure of confirmation of it. In a disputed case the investigation will need to be as sufficient as is reasonable in the circumstances.
- g) The main requirement is to be able to come to a fair decision on the balance of probabilities based on 'Is there a reasonable suspicion amounting to a belief in respect of the employee's alleged misconduct, and are there reasonable grounds for that belief?'
- h) The Investigating Officer will write to the employee being investigated to confirm the findings of the Management Investigation. In most cases there will be one of two outcomes:

- i. Complete exoneration from the allegations made. In this case a letter should be sent to all employees involved thanking them for their co-operation throughout the Management Investigation process.
- ii. A decision that disciplinary action should be taken.

In which case the employee should be advised that disciplinary action is going to be taken, and that s/he will be notified of the date, time and venue of the disciplinary hearing in the near future. In this circumstance it would be good practice to enclose a copy of the disciplinary procedure.

In some cases where it is not considered appropriate to invoke the disciplinary procedure, other options should be reviewed. The matter may be dealt with by discussion with the employee or by other actions such as arranging coaching, training or counselling. If merited, the employee may be advised that if further misconduct occurs, action under the formal disciplinary procedure may then be necessary. A brief note of the date, time and subject of the discussion (including a note of any explanation put forward by the employee) should be made, a copy of which should be sent to the individual.

As a result of the investigations undertaken, the Investigating Officer may identify a breakdown in procedures/regulations directly attributable to a lack of instruction. Under these circumstances, the relevant employees should be required to attend a meeting with their line Manager, on an individual basis, at which management instructions would be issued and confirmed in writing. This meeting would not constitute a disciplinary meeting, and there would be no requirement for the employee to be accompanied at this meeting.

If the employee is on sick leave at the time of investigation, this does not necessarily preclude an investigation being conducted. Advice should be sought from the Human Resources Service Partner (CAYA) on how to proceed in these circumstances.

5.3 Written Statements

To assist in this investigation process, it is important that written statements are procured from all those individuals involved, or witness to events resulting in an allegation being made against an employee. In order to ensure that these statements, or accounts are as accurate as possible, it is important that they are procured as soon as is practicably possible following the event. All Statements must be dated and signed by the individual making the statement in order that it may be regarded as a validated account of events as perceived by that individual. Clearly the Investigating Officer might wish to confirm and seek further information from those individuals providing statements, as part of the investigation process, and in order to seek a balanced overview of events. This might result in a need for supplementary statements from the individuals concerned. These statements would then form the basis for the Investigation, and may be used as documentary evidence in any disciplinary hearing resulting from the investigation.

Signed and dated witness statements may also be used in the absence of the witness at any subsequent disciplinary hearing, although it should be noted that they are not likely to carry the same weight as a witness attending a hearing in person.

It should be noted that interview notes and witness statements are disclosable at an Employment Tribunal.

5.4 Disclosure of Statements

When Statements are taken to assist the Management Investigation, there is no requirement to disclose all the statements to the member of staff who is being investigated.

However, any statements which are to be relied on as evidence to be presented at a disciplinary hearing, will need to be disclosed to the employee against whom allegations are made, in advance of that hearing and in accordance with the disciplinary procedure detailed in the next few pages.

Any documents which the investigating officer intends to present at the disciplinary hearing should be made available to the employee at least 5 days in advance of the hearing.

In conducting the investigation, evidence may be gathered which does not support the management case or which the investigating officer does not intend to use at a disciplinary hearing. A list of all such evidence, including a description of the contents, should be made available to the employee who may request copies.

6. The Formal Disciplinary Procedure

The purpose of the disciplinary procedure is not to act as a punitive response to a failure to meet the required standards of conduct or performance, but rather to act as a fair and consistent mechanism through which employees' conduct or performance may be corrected to achieve the standards required.

In dealing with an allegation, it is important that the process from investigation to disciplinary hearing should be undertaken as quickly as possible, without prejudicing a full and thorough investigation.

6.1 Action In Advance Of The Disciplinary Hearing

Once it has been ascertained that there is a case to be answered, the employee should be formally notified in writing of the date, time and venue for the hearing. The letter should detail the specific allegations being made and contain a copy of the disciplinary procedure that is going to be used in considering the case. The employee should be advised of his/her right to representation, and be requested to submit any documentation which he/she is intending to use at the Hearing. This notification should be either given by hand, or sent by special delivery post, to be received at least ten working days prior to the date of the hearing.

Copies of all documentation that is going to be presented at the hearing should be sent to all parties, including the employee, at least five working days prior to the date of the hearing by hand or special delivery post.

If the Headteacher is not going to be hearing the case, the disciplinary committee (that would normally have been formed at the first meeting of the Governing Body each academic year) consisting of three Governors who can objectively hear the case should be convened. Arrangements should be made for the hearing to be minuted appropriately. With objectivity in mind, it would be appropriate for Staff Governors to be excluded from the panel. No Governor who has been party to the details of the allegations may be included in the Committee. The Committee should elect one of their number to chair the proceedings.

The venue for the Hearing should have sufficient rooms available for the respective parties to be able to confer in private, and be free from interruption or distraction. Sufficient time for the case to be fully considered should be allowed. Anything from a few hours, to a few days depending upon the complexity of the case.

6.2 General Points

It is important that strict confidentiality is maintained in order to ensure a fair hearing. Governors should be informed of the action being taken without reference to details relating to the case. Staffroom discussion, and parental/community speculation should be actively discouraged as much as is possible.

a) *Deferment*

At the Headteacher/Disciplinary Committee's discretion, it is good management practice to allow deferment of the hearing (usually up to 5 days), due to circumstances such as illness. In reaching a decision on deferment management should give consideration to what is fair and reasonable. It may be necessary at a later stage to be able to evidence the consideration that was given to such a request. If the request for deferment arises from the unavailability of the employee's representative it is necessary to agree the deferment, in order that the right of representation be fulfilled.

b) *Pre-hearing*

In certain circumstances, for example particularly complex cases, it may be necessary to arrange a meeting prior to the hearing (a pre-hearing), to discuss procedural matters in advance of the hearing itself.

c) *Right to be Accompanied*

Employees have a statutory right to be accompanied at disciplinary hearings by Trade Union Representative or workplace companion. The chosen companion is entitled to take a reasonable amount of paid time off to fulfil that responsibility.

The companion should be allowed to address the hearing to put the employee's case, sum up the employee's case, and respond on the employee's behalf to any view expressed at the hearing. The companion has no right to answer questions on the employee's behalf, or address the hearing if the employee does not wish it, or to prevent the employer from explaining their case.

6.3 Sanctions

Oral Warning Not Confirmed in Writing

In the case of an initial minor offence the option of an oral warning not confirmed in writing may be taken. There is no appeal in this circumstance. There will be a record of this warning in the minutes/notes of the meeting which will be expunged after 12 months.

Formal Oral Warning

Usually given for minor offences, a written record is kept on the personal file, and on the school register of disciplinary action until such time as it is expunged (usually 12 months*). The confirmation in writing should detail the offence and the improvement required and the timescale allowed. The letter should warn of further action to be taken if there is no improvement, and provide a right of appeal.

Written Warning

For more serious misconduct, or where a further misconduct has occurred (either of a similar or of a different nature) it should detail the offence and the improvement required and timescale allowed. It should warn of further disciplinary action if there is no improvement, and provide a right of appeal. A copy should be held on the personal file and school disciplinary register until expunged (usually 12 months*).

Final Written Warning

For a serious act of misconduct, or where there has been a failure to improve conduct despite previous written warnings, it should detail the offence and warn that dismissal will result if there are any further offences, or if there is no improvement within a set timescale. It should provide a right of appeal. A copy should be held on the personal file and school disciplinary register until expunged (usually 12 months*).

Dismissal

For serious acts of gross misconduct, dismissal will be regarded as summary dismissal and there will therefore be no entitlement to payment in lieu of notice.

The Headteacher/Governing Body has an obligation to consider the appropriateness of alternatives to dismissal as detailed in Section 6 of the Model Disciplinary Procedure (i) to (vii).

For dismissal as a result of continued misconduct, payment in lieu of notice would normally be given. A letter detailing the reasons for dismissal, the date on which employment will terminate, and details of the appeals procedure should be sent to the employee as soon after the hearing as possible, and within at least five working days.

* See Expiry of Disciplinary Action, below.

6.4 Expiry of Disciplinary Action

All formal warnings shall normally expire after a period of satisfactory conduct and performance of 12 months. In exceptional circumstances and particularly when the misconduct relates to the safety and welfare of pupils, the Headteacher/Disciplinary Committee may consider that the disciplinary warning period should exceed this. This must be determined when the sanction is issued and include a statement of how long it will be retained on file, when it will be reviewed and make reference to the employee's right to make representations for the warning to be expunged as part of the review.

Clarification should also be provided of who will review the warning and on what grounds. A warning issued by the Headteacher should be reviewed by the Headteacher. A warning issued by the Disciplinary Committee should be reviewed by the Disciplinary Committee, even if the membership of that committee has changed.

The basis for the review will be the conduct of the employee during the period since the issue of the sanction, in relation to the area of misconduct. Even where there are no concerns during the intervening period the review may conclude that the sanction should not expire yet owing to the serious and particular nature of the misconduct.

Details of spent warnings, relating to the safety and the welfare of children, shall remain in the personal files to be utilised for reference purposes, in line with the DfES guidance on 'Safer Recruitment', but shall be disregarded for the purposes of disciplinary proceedings, except in exceptional circumstances.

A copy of the warning will be supplied to the employee.

The "exceptional" circumstances referred to above will be justified by the Headteacher/Disciplinary Committee at the time of decision and the employee may appeal.

7. Appeals Procedure

In the event of an appeal against the decision of the Headteacher or Disciplinary Committee of the Governing Body, confirmed in writing, the appellant must submit the grounds for the appeal, in writing, to the Headteacher within ten working days. If the Headteacher has made the initial decision the matter will be referred to the Disciplinary Committee.

Where the Disciplinary Committee has issued the sanction, the full Governing Body, or an Appeals Committee of the Governing Body, excluding members who participated on the disciplinary panel, should convene within fifteen working days to hear the appeal. It is good practice to establish an Appeals Committee at the beginning of the academic year when all other Governing Body Committees are formed. There needs to be a minimum of three members present and so more should be nominated to allow for those who may be unavailable.

When lodging their appeal, the employee is asked to state the grounds. Depending on the nature of the grounds, the appeal may require the main substance of the case to be heard or a particular focus to be considered.

For example:

- For an appeal on procedural grounds the case presented by the employee would focus on the evidence related to their challenge concerning the implementation of the disciplinary policy and procedure.
- For an appeal related to the level of sanction issued, rather than a challenge to the substance of the allegation, the case would focus on any mitigation and reasons why the employee considers the sanction not to be appropriate.
- For an appeal that challenged the judgement reached at the original hearing, a hearing of all the relevant evidence in the case would be needed for the Appeal Committee to formulate their own assessment of the case.

In any scenario, all the original case papers should be distributed to the appeal committee, plus the record of the Disciplinary Hearing.

At an Appeal Hearing the Chair of the Disciplinary Committee (or the Headteacher if s/he made the initial decision) should be present to articulate why they reached their judgement so the appeal committee can assess how reasonable was their determination. The Chair (or Headteacher) should also highlight any items of evidence, or submissions, they discounted in reaching their judgement and give reasons.

The Governing Body, or Appeals Committee, in considering an appeal has the discretion to uphold the Appeal, confirm or impose a lesser sanction than that applied by the Headteacher, or Disciplinary Committee, but cannot impose a greater sanction.

The Appeal decision by the Governing Body, or Appeals Committee is final, and should be confirmed in writing to the employee as soon as possible after the appeal hearing, and at least within five working days.

8. Employee Absence during the Hearing

There may be exceptional circumstances in which there may be no option but to conduct the hearing in the employee's absence. In these circumstances the employee must be so advised in advance, and invited to make a written submission to the hearing and be offered the opportunity for their representative to attend the hearing in the absence of the employee.

Where the employee fails to attend a hearing without any notification, consideration should be given to conducting the hearing in their absence.

Further advice should be sought from the Human Resources Service Partner (CAYA), as appropriate.

9. Grievance

Should a grievance* be raised by the employee during the course of the disciplinary process, the following action should be considered:

Normally, where a grievance is raised and the issues relate to the disciplinary matter, these will be considered as part of the disciplinary process. There are certain exceptions to this and advice should always be sought from the Human Resources Service Partner (CAYA).

Where a grievance is raised which is separate and unrelated to the matter in hand, this will be considered separately at the conclusion of the disciplinary process.

In certain circumstances, a grievance may be considered after an employee has been dismissed.

* For these purposes, grievance will be taken to include any employee led complaint including complaints of harassment.

Appendix 4

DELEGATION OF SCHOOL STAFFING REGULATIONS 2003

Disciplinary Hearings

Following the implementation of The School Staffing Regulations 2003, it is expected that Governing Bodies will delegate the management of staff conduct and all initial staff dismissal decisions to the Headteacher.

There are circumstances where the Governing Body may consider alternative arrangements, these are detailed in Appendix 4 - Annex A (page 34.)

The Headteacher may involve other Governors, for instance, in hearing representations at a dismissal hearing, but the final decision is expected to be that of the Headteacher. No Governor involved in a dismissal process should be used to hear the appeal against that dismissal.

However, where the Headteacher is involved in the case, as Investigating Officer or witness then it is very strongly advised that the Headteacher does not make an initial dismissal decision but refers the matter to the Disciplinary Committee of the Governing Body. In instances where the Headteacher acts as investigating officer, hears the case and makes an initial decision that the employee should be dismissed, Governing Bodies are advised that there is a much greater likelihood that the case will be challenged and more difficulty for the Local Authority if this leads to an Employment Tribunal. If the Disciplinary Committee make an initial decision to dismiss, any appeal would be addressed to an Appeal Committee drawn from the remainder of the Governing Body, not including any Governor previously involved in the case. Once the Governing Body has taken a decision to delegate responsibility for initial decisions on dismissal to the Headteacher, having taken account of the areas outlined in Annex A, it is advised that:

- Any allegation that might constitute either misconduct or gross misconduct should initially be assessed by the Headteacher to determine an appropriate Investigating Officer.
 - In small schools it may only be appropriate for the Headteacher fill this role.
 - In larger schools a member of the leadership team may be selected.
 - If the allegation concerns the Headteacher it should be referred to the Chair of Governors who will decide whether it can be investigated by a Governor or whether to ask for an appropriate LA Officer to conduct the investigation. (Chairs of Governors are strongly advised to contact Human Resources Service Partner (CAYA) for advice before proceeding).
 - Consideration may need to be given as to whether the Child Protection Procedures should take precedence, depending on the nature of the allegation.
- If a senior staff member (other than Headteacher) is the Investigating Officer then s/he should present the case for the Headteacher to hear.
- If the Headteacher has acted as Investigating Officer, but the allegation is of misconduct, not gross misconduct, then the Headteacher may hold a disciplinary hearing to determine whether the allegation is upheld and, if so, which sanction to

apply. In these circumstances the Headteacher may decide to involve other Governors in listening to representations of the staff member, but will make the final decision.

- The Governing Body, at its annual meeting should select a Disciplinary Committee of three Governors plus reserves and delegate responsibility for hearing disciplinary cases in situations where it is not appropriate for the Headteacher to exercise this responsibility.
- If the Headteacher is the Investigating Officer of an allegation of gross misconduct, or a witness in the case, then the case will be referred to the Disciplinary Committee of the Governing Body to be heard. The Disciplinary Committee will be made up of three Governors. Any appeal will be made to an Appeals Committee constituted from the remaining members of the Governing Body, not involved in the case so far, and of at least three in number.

[The Governing Body is advised to attach a statement detailing their decision concerning the delegation of disciplinary powers to their Disciplinary Policy Please consider Appendix 4, Annex A (p34) before making your decision].

Appendix 4 - Annex A

Excerpt from staffing guidance under sections 35(8) and 36(8) of the Education Act 2002

Delegation to head teacher of staff appointments and dismissals

- 1.1 The governing body has the overall responsibility for all staff appointments and dismissals in its school. With the exception of the dismissal of heads, where different arrangements apply it may delegate these responsibilities to the head teacher, an individual governor, or a group of governors with or without the head teacher.
- 1.2 Head teachers will normally be expected to lead all initial staff dismissal decisions. Appeals against dismissal should be heard by governors (see section 7 below). Therefore, other than in exceptional circumstances (outlined below in 1.3), the governing body should delegate the responsibility for these matters to the head teacher. The head teacher may involve other governors in selection or dismissal processes, for example in interviewing candidates and consulting on their suitability or in hearing representations at a dismissal hearing, but the final decision should be the head teacher's. No governors involved in a dismissal process should be used to hear the appeal against that dismissal.
- 1.3 In certain circumstances, outlined below, the governing body may consider applying alternative arrangements, which may include decisions being made by an individual governor or a group of governors with or without the head teacher. If an alternative arrangement is decided, the head teacher has a right to attend to offer advice. The circumstances are as follows:
 - A head teacher who is unwilling to perform these functions and whose previous history of service at the school did not include any such responsibilities. This gives an existing head teacher the option of preserving their current working arrangements, but when the governing body considers a new appointment for the head teacher post the normal expectation for the head teacher to undertake these responsibilities should apply.
 - Where the head teacher has been directly involved in disciplinary procedures leading to dismissal, has instigated a proposal to dismiss, or is a witness of particular conduct giving grounds for the dismissal in question. The arrangements for delegating initial dismissal decisions will therefore need to be considered on a case by case basis in the light of circumstances.
 - Where the governing body of a school with a religious character has agreed staffing policies which provide for governor involvement in the interests of preserving the school's religious character.
 - A head teacher subject to suspension, disciplinary procedures (including capability), or disciplinary sanction.
 - Where the LA has made representations to the chair of the governing body on

grounds of serious concerns about the performance of the head teacher.

- Where the head teacher has failed to abide by financial limits agreed by the governing body for any school purpose.

1.4 The governing body should review, at least annually or otherwise where necessary, the continuation of any circumstances where the head teacher does not lead on these staffing matters because of concerns about their conduct or performance (i.e. the final three indents above). Where a head teacher is on long-term sick leave, secondment or some other long-term absence, the governing body should consider whether it is appropriate to pass delegated responsibility to the person acting in the head teacher's place. The head should have an opportunity to make representations on any decisions to discontinue or continue delegated responsibility.

1.5 Where the head teacher is exercising delegated responsibility, this cannot be delegated on to another person by the head teacher.

Appendix 5

ROLE OF THE CONTACT OFFICER

1. Introduction

It is recognised that there is a need, both at school and Local Authority level, to provide some means of support to a member of staff who is the subject of an allegation at work, or who has been suspended as a consequence of an allegation. The member of staff involved may experience feelings of stress, worry, and depression and may also feel isolated from their workplace, colleagues, friends and relatives.

It is important that any member of staff in this situation is regularly informed about what is happening in relation to the allegation and investigation, as a lack of information may itself lead to further stress and potential ill health. It should be recognised and appreciated that the allegation may have placed the member of staff in a difficult situation when handling the implications of the allegation for their family.

In order to provide support in these circumstances, and particularly where a member of staff is suspended, an appropriate person should be asked to act as Contact Officer for the member of staff. The Contact Officer should be totally objective and not involved in the investigation or subsequent action in any way. Their role is only to provide support to the member of staff.

Professional support relating to the investigation will also be available to the member of staff from their professional association or trade union. It is intended that the support from the Contact Officer will be complementary to this support.

2. Allocation of a Contact Officer

- The Contact Officer will normally be outside of the line management of the member of staff and will often be from the Local Authority's Human Resources Team.
- The Contact Officer should be a sensitive and caring person who will be able to provide the necessary level of support to the member of staff and, if appropriate, make any contacts on their behalf.
- The Contact Officer must be acceptable to the member of staff and if not, for whatever reasons, an alternative Contact Officer will be offered.
- The name and contact arrangements should be confirmed in writing to the member of staff and reference to the Contact Officer should be made in any letter of suspension.
- The Contact Officer will make initial contact with the member of staff as soon as practicable. Subsequent contact will be according to the wishes of the member of staff and their professional association or trade union representative.

3. Role of the Contact Officer

The role of the Contact Officer is to:

- Reassure and offer confidential help and support to the member of staff. In particular, the Contact Officer should be available to listen to and identify any indications about the state of health and well-being of the member of staff.
- Recognise that the circumstances may be personally very stressful to the member of staff and to help them to cope with this. This may involve supporting the member of staff in seeking additional help or counselling from their GP, LA, Occupational Health, or other counselling.
- Feedback any concerns, without breaching any confidentiality about the health and well-being of the member of staff so that appropriate action can be taken by the school or Authority.
- Offer any other support which may be necessary.
- Support the member of staff until the investigation and any subsequent action is concluded. Depending on the outcome this may involve continuing the support, until the member of staff has returned to, and settled back into, their workplace.

4. Management Support

The Contact Officer has a key role in supporting a member of staff who has had an allegation made against them. Support from a Contact Officer will be made available to all members of staff who are suspended, but particular attention will be paid to situations which, by their nature, are especially sensitive, such as those relating to matters of a sexual nature or where allegations of abuse of children may be involved. Because of the particular pressures that such allegations create, there may be a need for additional specialist support for the member of staff.

The Contact Officer's own line manager needs to be aware of their involvement in supporting a member of staff and the impact and effect which this may have on the Contact Officer in personal terms and in relation to time commitment.

Record of Disciplinary Action and Formal Complaints Concerning the Safety and Welfare of Children

Name of Employee	Position	Date of complaint /allegation	Allegation	Action, including informing LA	Outcome/sanction	Review date (if relevant) and outcome.

Specimen Letters

1. Attendance at a formal counselling interview.
2. Confirmation of outcome of counselling interview/action plan.
3. Outcome of formal counselling review/extension of review period.
4. Outcome of formal counselling review - satisfactory progress/no further action.
5. Outcome of formal counselling review/no significant progress.
6. Allegation of misconduct/gross misconduct. Request to attend investigatory meeting.
7. Letter informing employee no action to be taken following investigation.
8. Letter notifying employee of decision to implement formal disciplinary procedure following investigation.
9. Letter of suspension.
10. Letter informing employee no action to be taken following investigation.
11. Oral warning – confirmation.
12. Written warning.
13. Final written warning.
14. Dismissal (not summary)
15. Summary Dismissal.
16. Notification of appeal hearing date - for consideration by the Governing Body.
17. Appeal against disciplinary action.

Specimen Letter 1

Attendance at a Formal Counselling Interview

Date

Personal and Confidential

Name and Address

Dear

Formal Counselling - Interview

I write to request your attendance at a Formal Counselling Interview at which we shall discuss your standard of conduct/co-operation*.

This meeting is arranged for (day) (date) at (place) at (time). Should you wish to be accompanied at this meeting you may call upon the services of your Trade Union/ Professional Association Representative or other chosen representative to observe the proceedings.

I hope that we may, at this interview identify the cause(s) of any difficulties and agree a plan of action to resolve the situation.

I shall be grateful if you will please contact me to confirm your intention to attend this meeting as soon as possible.

Yours sincerely

*Insert/delete as appropriate

Copy to: Personal File

Specimen Letter 2

Outcome of Formal Counselling Interview – Action Plan on Review of Progress

Date

Personal and Confidential

Name and Address

Dear

Formal Counselling - Interview

I write to confirm the outcome of our formal counselling interview where we discussed in depth your continuing conduct/co-operation*.

As discussed with you your conduct/co-operation* does not meet the expected standard in that

[details of nature of problem]

Our discussions identified the probable cause(s) of the difficulties these being:

[details of cause(s)]

To resolve this situation we agreed the following action plan:-

I will

- 1)
- 2) insert action points
- 3)

You will

- 1)
- 2) insert action points
- 3)

We also agreed to review your progress on (day), (date) at (place) at (time).

I trust you will agree that this is a true reflection of our meeting and hope we can work together to resolve this matter.

Yours sincerely

*Insert/delete as appropriate

Copy to: Personal File

Specimen Letter 3

Outcome of Formal Counselling Review/Extension of Review Period

Date

Personal and Confidential

Name and Address

Dear

Formal Counselling - Review

I write to confirm the outcome of our formal counselling interview held on (date) where we discussed your progress to date towards you achieving the expected standard of conduct/co-operation.*

At the review meeting we agreed that significant progress towards achieving a satisfactory standard has been made. Based upon this improvement we agreed that the review period should be extended to (day) (date).

Thank you for your continuing co-operation.

Yours sincerely

Copy to: Personal File

*Insert/delete as appropriate

Specimen Letter 4

**Outcome of Formal Counselling Review–
Satisfactory Progress/No Further Action**

Date

Personal and Confidential

Name and Address

Dear

Formal Counselling - Review

I write to confirm the outcome of our formal counselling review interview held on (date) where we discussed your progress to date towards you achieving the expected standard of conduct/co-operation*.

As discussed at that meeting your standard of conduct/co-operation* has improved greatly, and I intend to take no further action on this matter.

Yours sincerely

Copy to: Personal File

*Insert/delete as appropriate

Specimen Letter 5

Outcome of Formal Counselling Review – No Significant Progress

Date

Personal and Confidential

Name and Address

Dear

Formal Counselling - Review

I write to confirm the outcome of our formal counselling review interview held on (date) where we discussed your progress to date towards you achieving the expected standard of conduct/co-operation*.

As discussed at that meeting I feel that there has been no significant progress towards achieving a satisfactory standard despite all my help and assistance.

I must now confirm to you that unless your conduct/co-operation* reaches a satisfactory standard by (day) (date), I shall implement the Formal Disciplinary Procedure against you.

Should you require further help or assistance prior to (day) (date) please do not hesitate to ask me.

Yours sincerely

Copy to: Personal File

*Insert/delete as appropriate

Allegation of Misconduct/Gross Misconduct - Request to Attend Investigatory Meeting

Date

Special Delivery
Personal and Confidential

Name and Address

Dear

Allegation of Misconduct/Gross Misconduct*

I wish to inform you that I have received an allegation against you which may constitute an act of misconduct/gross misconduct. It is alleged that you:

- date(s), time(s) and place(s) of alleged offences(s)
- details of alleged offence(s)

This allegation is to be investigated and you are required to attend an Investigatory meeting at (place) on (day, date) at (time) when (X, Y) will be present to discuss this issue with you.

Whilst this investigatory meeting does not constitute part of the formal Disciplinary Procedure, you have the right to be accompanied by your Trade Union/Professional Association Representative or other chosen representative should you so wish.

I must inform you that the Formal Disciplinary Procedure may be implemented should there be sufficient reasonable grounds to support the allegation.

Failure to attend an Investigatory meeting without good reason may be considered a disciplinary offence.

I shall be grateful if you will please contact * to confirm your intention to attend the meeting.

I thank you in anticipation of your co-operation in this matter. If there is anything you wish to clarify or query, please do not hesitate to contact me.

Yours sincerely

*Copy to: Personal File
Trade Union Representative*

** delete if the allegation is definitely not of gross misconduct.*

Specimen Letter 7

Letter Informing Employee That No Action To Be Taken Following Allegation of Misconduct

Special Delivery

Date

Personal and Confidential

Name and Address

Dear

Allegation of Misconduct/Gross Misconduct*

I am writing to confirm to you that an investigation of all of the circumstances surrounding the allegation of misconduct/gross misconduct* made against you on (date), has been completed.

The Investigating Officer finds there is no foundation to the allegation and thus the matter is satisfactorily concluded and no further action will be taken.

I hope you consider that this issue has been fair and reasonable throughout and I wish you every success for the future. Thank you for your co-operation with the investigation process.

Yours sincerely

Copy to: *Personal File*
 Trade Union Representative

* delete as appropriate

Specimen Letter 8

Letter Informing Employee of Decision to Implement Formal Disciplinary Procedure Following Investigation and Attend Hearing

Special Delivery

Date

Personal and Confidential

Name and Address

Dear

Allegation of Misconduct/Gross Misconduct*

I write to inform you that having completed the Management Investigation, the investigating Officer considers that there are sufficient reasonable grounds for the allegation of misconduct/gross misconduct against you to be pursued, and that therefore, the Formal Disciplinary Procedure (copy attached) will be implemented.

You are required to attend a Disciplinary hearing at (place) on (day, date) at (time) when the Disciplinary Officer (name)/the Disciplinary Sub-Committee of the Governing Body will hear the case.

It is alleged that you:-

- date(s), time(s) and place(s) of alleged offence(s).
- detail(s) of alleged offence(s).

Which constitutes an act of misconduct/gross misconduct*

- should such action be proven, this may lead to your subsequent dismissal from the school's employment.

You have the right of representation by your Trade Union/Professional Association Representative or other chosen representative who may assist in the presentation of your case. You may call witnesses and ask questions of the Investigating Officer and Witness(s) called by him/her.

You have the right of appeal against any disciplinary action which may be taken against you. I enclose a copy of the Disciplinary Procedure and Appeals Procedure for your information.

Cont/d...

Would you please confirm your intention to attend this Disciplinary Hearing to (name) on (telephone number) as soon as possible. I must inform you that failure to attend a disciplinary interview without just cause will be considered as an offence for which further disciplinary action may be taken, and may result in the disciplinary hearing being held in your absence. If there is anything you wish to clarify or query, please do not hesitate to contact me.

Yours *sincerely*

Encs

Copy to: Personal File

* if gross misconduct has definitely been ruled out, delete as appropriate.

Specimen Letter 9
Letter of Suspension

Special Delivery

Date

Personal and Confidential

Name and Address

Dear

Allegation of Misconduct/Gross Misconduct - Suspension

I write to confirm the oral notification of suspension from duty on normal pay pending the investigation of an allegation of misconduct/gross misconduct made against you on the

- .date(s), time(s) and place(s) of alleged offence(s).
- detail(s) of alleged offence(s).

Your suspension will take effect immediately from (day), (date), (time) and will continue for a period of time not exceeding *week(s) without review. There will be an initial review of this suspension within 5 working days and *(you are invited to attend on at and be accompanied by your trade union or other representative) or *(you will be contacted as soon as possible to make arrangements).

During this period of suspension, it will be necessary to make yourself available should it be necessary to contact you at any time in order to facilitate further investigation. You should also note that you should not return to your place of work without obtaining prior approval from the Headteacher.

You will be notified in writing of the details of an Investigation, and any subsequent Meetings which you will be required to attend.

Suspension on full pay is not a disciplinary action and is intended as a neutral act carrying no implication of guilt, therefore you have no right of appeal against this decision.

I thank you in anticipation of your co-operation in this matter.

If there is anything you are unsure of or anything you wish to clarify in connection with the above, please contact (*) or your Trade Union/Professional Association Representative.

Yours sincerely

**Insert as appropriate*

*Copy to: Appropriate Trade Union Representative
Personal File*

Specimen Letter 10

Letter Informing Employee That No Action To Be Taken Following Disciplinary Hearing

Special Delivery

Date

Personal and Confidential

Name and Address

Dear

Allegation of Misconduct /Gross Misconduct *

I am writing to confirm that following a disciplinary hearing held onat the panel agreed that the allegation was not proven and no further action will be taken.

I hope you consider that the issues has been dealt with fairly and reasonably. I would like to thank you for your co-operation. The allegation and outcome will be retained on file for (10) years and its relevance considered if it is necessary to write a reference for you.

It is the policy of this school to provide employees with access to their reference.

Yours sincerely

Headteacher/Chair of Sub-Committee

Copy to: *Personal File*
 Trade Union Representative

* delete as appropriate

Specimen Letter 11

Oral Warning - Confirmation

<u>Special Delivery</u> <u>Personal and Confidential</u>	Date
Name and Address	
Dear	
Disciplinary Action - Formal Oral Warning	
<p>I refer to the disciplinary hearing you attended on (insert date) at (location) in the presence of (names and designation). After consideration of the case against you presented by (Investigating Officer's details), the statements by your representative, (rep's name and designation) and yourself, I have decided that the allegation of (here state misconduct etc) has been found proven in that you:</p>	
<ul style="list-style-type: none">• date(s), time(s) and place(s) of offence(s)• details of offence(s)	
<p>*I therefore confirm the decision to issue you a formal oral warning. *I have, therefore, decided to issue you a formal oral warning.</p>	
<p>I must warn you that in the event of any further incident of misconduct, whether of a similar, or of a completely different nature, further disciplinary action against you, including dismissal may be contemplated.</p>	
<p>This warning has been recorded on your personal file and on the "Register of Disciplinary Action" maintained by the Headteacher where your record may be inspected.</p>	
<ul style="list-style-type: none">• This warning will be expunged from your disciplinary record after 12 months service subject to satisfactory conduct and performance.• This warning will not automatically be expunged after 12 months, but will be reviewed in months time. You will have the right to make representations for its expunction.	
<p>A record of the allegation and outcome will be retained in the personal file for 10 years and its relevance considered if it is necessary to provide a reference for you.</p>	
<p>It is the policy of this school to provide employees with access to their reference.</p>	
<p>You are entitled to appeal against the decision and to do this you must write to me within 14 days of the date of this letter setting out the grounds of appeal.</p>	

If there is anything you are unsure of, or if you would wish to clarify any point in connection with the above please contact or your Trade Union/Professional Association Representative.

Yours sincerely

** Select the appropriate statement*

Copy to: *Personal File*
 Register of Disciplinary Action
 Trade Union Representative

Specimen Letter 12

Written Warning

Special Delivery

Date:

Personal and Confidential

Name and Address

Dear

Disciplinary Action - Written Warning

I refer to the disciplinary hearing you attended on (insert date) at (location) in the presence of (names and designation). After careful consideration of the case against you presented by (Investigating Officer's details), the statements by your representative, (rep's name and designation) and yourself, I have decided that the allegation made against you of (here state misconduct etc) has been found proven, in that you:

- Date(s), time(s) and place(s) of offence(s)
- details of offence(s)

*I therefore confirm the decision to issue to you a formal written warning

*I have therefore decided to issue to you a formal written warning

I must warn you that in the event of any further incident of misconduct, whether of a similar or of a completely different nature, further disciplinary action against you, including dismissal may be contemplated.

This warning has been recorded on your personal file and on the "Register of Disciplinary Action" maintained by the Headteacher where your record may be inspected.

*This warning will be expunged from your record after 12 months service subject to satisfactory conduct and performance.

*This warning will not automatically be expunged after 12 months, but will be reviewed in months time. You will have the right to make representations for its expunction.

A record of the allegation and outcome will be retained in the personal file for 10 years and its relevance considered if it is necessary to provide a reference for you.

It is the policy of this school to provide employees with access to their reference.

You are entitled to appeal against the decision and to do this you must write to me within 14 days of the date of this letter setting out the grounds of appeal.

If there is anything you are unsure of or wish to clarify any point in connection with the above please contact or your Trade Union/Professional Association Representative.

Yours sincerely

* *Select the appropriate statement.*

Copy to: *Personal File,
 Register of Disciplinary Action,
 Trade Union Representative*

Specimen Letter 13

Final Written Warning

Special Delivery
Personal and Confidential

Date:

Name and Address

Dear

Disciplinary Action - Final Written Warning

I refer to the disciplinary hearing you attended on (insert date) at (location) in the presence of (names and designation). After careful consideration of the case against you presented by (Investigating Officer's details), and the statement by your representative (rep's name and designation) and yourself, I have decided that the allegation made against you of (here state misconduct etc) has been found proven, in that you:-

- on date(s), time(s) and place(s) of offence(s)
- details of offence(s)

* I therefore confirm the decision to issue to you a final written warning.

*I have therefore decided to issue to you a final written warning.

*In my previous letter to you dated I informed you that should there be repetition of any form of misconduct, whether of a similar or of a completely different nature, further disciplinary action may be taken; consequently I am therefore, issuing you with a final written warning.

I must again warn you that in the event of any further incident of misconduct whether of a similar or of a completely different nature, then further disciplinary action may be taken against you which may result in your dismissal from your employment with this School.

This warning has been recorded on your personal file and on the "Register of Disciplinary Action" maintained by the Headteacher where your record may be inspected.

* This warning will be expunged from your record after 12 months service subject to satisfactory conduct and performance.

* This warning will not automatically be expunged after 12 months, but will be reviewed in months time. You will have the right to make representations for its expunction.

A record of the allegation and outcome will be retained in the personal file for 10 years and its relevance considered if it is necessary to provide a reference for you.

It is the policy of this school to provide employees with access to their reference.

You are entitled to appeal against this decision and to do this you must write to me within 14 days of the date of this letter setting out the grounds of appeal.

If there is anything you are unsure of or should you wish to clarify any point in connection with the above, please contact or your Trade Union/Professional Association Representative.

Yours sincerely

** Select the appropriate statement*

Copy to: *Personal File,
Trade Union Representative,
Register of Disciplinary Action*

Specimen Letter 14

Dismissal Letter (Not Summary Dismissal)

Special Delivery

Date

Personal and Confidential

Name and Address

Dear

Disciplinary Action - Dismissal

I refer to the disciplinary hearing you attended on (insert date) at (location) in the presence of (names and designation). After careful consideration of the case against you presented by (Investigating Officer's details), and the statement by your representative, (rep's name and designation) and yourself, I have decided that the allegation made against you of (here state misconduct etc) has been found proven, in that you:

- on date(s), time(s) and place(s) of offence(s)
- details of offence(s)

In my previous letter to you dated I informed you that should there be a repetition of any form of misconduct further disciplinary action might be taken against you which could result in dismissal.

I must therefore inform you that I have decided to require the Authority to dismiss you from your employment with this school with effect from (specify operative date of dismissal and insert information about pay, service of notice etc).

You are entitled to appeal against the decision to dismiss you and to do this you must write to the Headteacher, setting out the grounds of your appeal within 10 working days of the date of this letter. He/She will write to you about the arrangements for the appeal to be heard.

A record of the allegation and outcome will be retained in the personal file for 10 years and its relevance considered if it is necessary to provide a reference for you.

It is the policy of this school to provide employees with access to their reference.

[The Local Authority has a duty to report instances where a teacher ceases to be employed for reasons of misconduct or in compliance to the DCFS and/or the General Teaching Council. This will only be undertaken once the decision to dismiss has been implemented and if any appeal has not been successful in securing re-instatement.]

If there is anything you are unsure of, or should you wish to clarify any point in connection with the above, please contact or your Trade Union/Professional Association Representative.

Yours sincerely

*Copy to: Personal File
Register of Disciplinary Action
Trade Union Representative*

Specimen Letter 15

Summary Dismissal

<u>Special Delivery</u>	Date
<u>Personal and Confidential</u>	
Name and Address	
Dear	
Disciplinary Action – Summary Dismissal	
<p>I refer to the disciplinary hearing you attended on (insert date) at (location) in the presence of (names and designation). After careful consideration of the case against you presented by (Investigating Officer's details), and the statement by your representative (rep's name and designation) and yourself, I have decided that the allegation made against you of (here state misconduct etc) has been found proven, in that you:</p>	
<ul style="list-style-type: none">• date(s), time(s) and place(s) of offence(s)• details of offence(s)	
<p>Therefore, I must confirm my decision to require the Authority to dismiss you from your employment with this School with effect from (date of dismissal) and without notice.</p>	
<p>If you are entitled to any payments (eg holiday pay and superannuation) these will be paid to you up to the date of dismissal.</p>	
<p>A record of the allegation and outcome will be retained in the personal file for 10 years and its relevance considered if it is necessary to provide a reference for you.</p>	
<p>It is the policy of this school to provide employees with access to their reference.</p>	
<p>[The Local Authority has a duty to report instances where a teacher ceases to be employed for reasons of misconduct or incompliance to the DCFS and/or the General Teaching Council. This will only be undertaken once the decision to dismiss has been implemented and if any appeal has not been successful in securing re-instatement.]</p>	
<p>You are entitled to appeal against this decision and to do this you must write to the Headteacher setting out the grounds of your appeal within 10 working days of the date of this letter. He/She will then write to you concerning the arrangements for the appeal to be heard.</p>	
<p>If there is anything you are unsure of, or should you wish to clarify any point in connection with the above, please contact..... or your Trade Union/Professional Association Representative.</p>	

Yours sincerely

* Ensure date is consistent with date of decision employee orally dismissed

Copy to: Personal File

Register of Disciplinary Action

Trade Union Representative

Notification of Appeal Hearing Date, to be Considered by the Governing Body

Special Delivery

Date

Personal and Confidential

Name and Address

Dear

Appeal Against Disciplinary Action

I refer to your letter dated appealing against:

- *the decision to (insert disciplinary action taken), or
- *the facts of the case as presented at the initial hearing

An appeal hearing has been arranged for (insert date) at, in (Room). You have the right, if you so wish, to be accompanied and represented by a Trade Union/ Professional Association Representative, friend, or colleague, and shall be entitled to call witnesses and to present documents relevant to your defence.

Enclosed is a copy of the Schools Disciplinary Procedure and Appeals Process for your information.

The procedure at the hearing will be as follows:

1. You will have the opportunity to put your case and to call such witnesses as you wish.
2. The Investigating Officer will have the opportunity to ask you and your witness questions. The Appeal Committee of the Governing Body will have the opportunity to ask questions of you and your witness.
3. The Investigating Officer will put the case in your presence and call witnesses. You will have the opportunity to ask questions of the Investigating Officer and witnesses. The Appeals Committee will have the opportunity to ask questions of the Investigating Officer and witnesses.
4. All the witnesses will withdraw at this point.
5. You and the Investigating Officer will have the opportunity to sum up your cases if you so wish.
6. The Investigating Officer and you will withdraw.

Cont ...

7. The Governing Body will deliberate, only recalling the two parties together to clear points of uncertainty on evidence already given.

The Governing Body will decide whether to allow or dismiss the appeal. The Governing Body will announce the decision to you personally and this will be confirmed in writing within seven days.

If there is anything you are unsure of, or should you wish to clarify any point in connection with the above, please contact or your Trade Union/Professional Association Representative.

Yours sincerely

** Delete as appropriate*

Copy to: *Trade Union Representative*

Notification of Appeal Hearing Decision

Special Delivery

Date

PERSONAL AND CONFIDENTIAL

Name and Address

Dear

Appeal Against Disciplinary Action

I refer to the disciplinary appeal hearing of (date) conducted by (Appeals Committee of _____ School) where your appeal against

* i) the decision to (insert disciplinary action taken)

or

* ii) the facts of the case as presented at the initial hearing were heard.

Having given due consideration to the facts of the case as presented by (presenting Officer's details) and having due regard for your and your representative's submission (rep's name and capacity) we have decided/it is decided that you were guilty of (misconduct/gross misconduct) in that you;

> date(s), time(s) and place(s) of offence(s)
> details of offence(s)

*We therefore confirm the decision to uphold the disciplinary action taken against you (details of sanction imposed) on (date of initial hearing).

* We confirm the decision to reduce the disciplinary sanction to (details of sanction determined at appeal). It was determined that the warning will expire (provide the full details of length of warning and any details concerning review and expungement).

A record of the allegation and outcome will be retained in the personal file for 10 years and its relevance considered if it is necessary to provide a reference for you.

The decision of the Appeals Committee is final, with no further recourse through internal appeals procedures available to you.

(In the case of dismissal, the following should be included - you may seek further recourse through an Industrial Tribunal within three months of the decision to dismiss you, subject to you satisfying the criteria relating to length of service).

Yours sincerely

Copy to: Personal File - Register of Disciplinary Action

Copy to: Trade Union Representative

** Delete as appropriate.*