

DISCIPLINARY PROCEDURE

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The Ellen Wilkinson School for Girls

DISCIPLINARY PROCEDURE

1. AIM

The aim of this procedure is to provide fair and effective arrangements for maintaining the standards of staff conduct and behaviour required by the school.

To support this aim the procedure takes account of best practice, legislative requirements and guidance contained in the ACAS Code of Practice on Discipline and Grievance Procedures.

2. SCOPE AND PRINCIPLES

Governing bodies of schools with delegated budgets are responsible for determining arrangements for dealing with disciplinary matters. Governing bodies are required by law to set disciplinary procedures for the staff that they employ and to make them known to these staff. It is a legal requirement for governing bodies to establish a committee to consider disciplinary appeals. Except in exceptional circumstances (see Appendix 5) Governing bodies should formally delegate to head teachers the power to suspend and dismiss staff and to the chair of the governing body the power to suspend the head teacher. These procedures have been agreed with the teaching and support staff trade unions and are commended to Ealing schools for adoption. Staff and staff side representatives have been consulted about the changes made to this policy

These procedures apply to both teaching staff, including headteachers and deputy headteachers, and support staff employed by the governing body to work in the school (for any non school funded posts Schools HR should be contacted for advice). They do not apply to other staff employed in the school under contract arrangements with external providers e.g grounds maintenance staff.

Any actions and/or sanctions to deal with the conduct of a new member of support staff during the probationary period or for all internal appointments (except for assimilations, redeployments and medical redeployments) during a performance review period should be dealt with under the school's probation and performance review procedure.

Similarly teaching staff serving an induction period should be dealt with in accordance with the teacher's induction procedure.

2.4 Disciplinary procedures should not be seen primarily as a means of imposing sanctions but rather as a way of encouraging improvement amongst employees whose conduct is unsatisfactory.

2.5 The procedure will apply to all matters relating to:

- Conduct and behaviour in the workplace;
 - Breaches of school policy
 - Activities and behaviour outside the workplace which may bring the reputation of the school into disrepute;
 - Allegations of misconduct arising from action under other School policies and procedures such as Bullying and Harassment.
 - Inappropriate conduct towards children
- 2.6 Separate procedures and guidance exist for dealing with the management of unsatisfactory performance, sickness absence and medical capability. Where in the course of investigating an incident of alleged misconduct it transpires that it is an issue of medical capability or unsatisfactory performance rather than misconduct, the matter should be referred for action under the relevant procedure. The same manager dealing with the misconduct under the Disciplinary Procedure will normally deal with the relevant capability or Medical Capability Review procedures.
- 2.7 The procedure is designed to help establish the facts of a case quickly and to deal consistently with disciplinary issues. No disciplinary action should be taken until the matter has been investigated and employees will be given the opportunity to state their case before decisions are reached.
- 2.8 Managers have the authority to initiate the procedure at any level depending on the specific circumstances of the case, and the application of their judgement (when considering whether informal or formal action is appropriate however, no matter how brief an investigation must take place prior to a formal disciplinary hearing).
- 2.9 The employee will have access to any evidence that the presenting manager wishes to rely on at the formal hearing, through witnesses or documentary evidence.
- 2.10 Minor instances of misconduct and poor practice should initially be dealt with in an informal way e.g. counselling, training, and setting clear standards for improvement. This could be in the form of an informal verbal warning, which should include confirmation of appropriate and expected standards. It should be stressed that such action does not form part of the formal disciplinary procedure, although it may be made clear to the employee that formal action might be taken on recurrence of the conduct in question.
- 2.11 Headteachers are expected to take all disciplinary decisions against staff, including dismissal (with the exception of decisions against the headteacher). Appeals against any formal disciplinary sanction imposed by the headteacher, including dismissal, should be heard by the governing body appeal panel. It is a legal requirement for governing bodies to establish committees to deal with disciplinary (including capability) and grievance issues. Other than in exceptional circumstances (see Appendix 5), the governing body should delegate the responsibility for staff disciplinary matters to the headteacher. The headteacher cannot delegate this responsibility to other members of staff in the

school. However where a headteacher is on long-term sick leave, secondment or some other long-term absence, the governing body should consider whether it is necessary to pass full (or partial) delegated responsibility to the person acting in the headteacher's absence.

- 2.12 The school are strongly advised to request the advice of a HR Advisor who will attend as an adviser at the hearing.
- 2.13 An employee should not be summarily dismissed (that is without notice) except in cases of a finding of gross misconduct. If an employee is dismissed for some other misconduct, such a dismissal will be with notice.
- 2.14 Employees have the right to appeal against any formal disciplinary sanction imposed. There is, however, no right of appeal against any informal action taken by a school manager.

3. TIMESCALES

- 3.1 All parties to the proceedings have an obligation to co-operate in ensuring that processes and timescales set out in this procedure are followed. Where the handling of the case would be compromised by the need to comply with the timescales and/or in the event more time is needed, the timescales may be extended. In this case the employee must be informed in writing and given the reasons for the timescale extension.
- 3.2 Where a trade union representative or work colleague chosen by the employee (who is the subject of disciplinary action or an investigation) to accompany them at any stage of the formal procedure cannot attend on the date proposed they should confirm this to the person conducting the hearing and an alternative date should be arranged. This should normally be within five working days, beginning with the first working day after the original date proposed by the employer.

The meeting would not normally be postponed a second time and this should be made clear in the communication which is sent agreeing the first postponement. However, where exceptional circumstances are involved, this may be agreed.

4. RIGHT TO REPRESENTATION

- 4.1 Employees, who are the subject of disciplinary action/investigation, have the right to advice and guidance and to be accompanied/represented by a trade union representative or work colleague at any formal stage of the procedure.
- 4.2 In exceptional circumstances, a representative who is neither a work colleague nor a trade union representative may be permitted, for example, if there are medical reasons. This will be at the sole discretion of the officer conducting the meeting (i.e. the Investigation Officer for Investigation Meetings, and the Hearing Officer for Disciplinary Hearings). Legal representation, specialist employment law advisers and similar, will not be allowed.
- 4.3 Employees and their representatives should be consulted on the timing of meetings/hearings to consider an allegation under this procedure.

5. APPLICATION OF PROCEDURE

- 5.1 School leadership group staff or school governors who participate in any formal stage of the Procedure must have an understanding of the operation and requirements of the Disciplinary Procedure.

6. ROLE OF HUMAN RESOURCES (HR) REPRESENTATIVES

- 6.1 At all stages in the Disciplinary Procedure, in addition to those stages where there is a specific requirement, the Schools HR should be consulted for advice.
- 6.2 The School's HR role includes the following:
- Providing advice to headteachers and school managers on informal action;
 - Provide advice to headteachers or chairs of governors on taking a decision to suspend an employee;
 - Provide advice to headteachers or chairs of governors on taking formal disciplinary action, including advice on child protection or other complex cases, framing allegations, disciplinary hearing case documentation;
 - Ensuring that the investigating/hearing officers/appeal hearing governors are aware of the legal aspects and any other sensitive/complex aspects of a case;
 - Advising at disciplinary hearings and/or disciplinary appeals hearings;
 - Advising on letters which confirm the outcome of the hearing;
 - Advising on interpretation of school policy;
 - Monitoring suspensions and progress on disciplinary investigations/ hearings to ensure that the process is completed as quickly as possible.
- 6.3 The role of the HR Advisor at disciplinary/appeals hearings is primarily to provide advice and support to the Investigating/Hearing Officer on procedural matters. The HR Advisor may also ask questions at disciplinary/appeal hearings.

7. ROLE OF INVESTIGATING OFFICERS

- 7.1 Investigating officers will normally be drawn from the school leadership group. There will however be exceptional circumstances where it will be necessary to appoint an independent investigating officer. This will be where there are no members of the school leadership group who have not had prior involvement in the matter. Further advice on this may be obtained from the Schools HR Advisor. School managers should be required to arrange for the following:
- Undertake investigations, prepare reports and draft allegations.
 - Ensure that all relevant paperwork and full details of the allegations and witnesses are supplied to the employee;
 - Make arrangements for administering the process including arranging for notes to be taken and written up by a clerk.
- 7.2 Where the responsibility has been delegated to them, the headteacher should generally hear Disciplinary Hearings.
- 7.3 School managers should consult with Schools HR before conducting a disciplinary investigation and at all stages of the process.

8. DISCIPLINARY RULES

- 8.1 The following guide and further details in Appendix 2 outline situations that could result in disciplinary action being taken. This list is not exhaustive and there may be actions that are not listed, but may nevertheless be the subject of disciplinary action.

Gross Misconduct

- 8.2 Gross misconduct is defined as misconduct of such a serious nature that the School is justified in no longer tolerating the employee's continued presence at work. Where the allegation is considered to potentially be gross misconduct, then this may result in the employee's immediate suspension from work. If the allegation(s) are proven, then this could result in summary dismissal without notice. Examples of gross misconduct are detailed in Appendix 2 although this is not an exhaustive list. Further information on suspension is provided in paragraphs 9.12 to 9.20 below.

Other Misconduct

- 8.3 There is also other misconduct, which might be serious enough to merit dismissal where the Hearing Officer decides that no lesser sanction, would be sufficient. Misconduct of a serious or repeated minor nature may result in the issuing of a written, final or indefinite final written warning. Examples include, inappropriate behaviour e.g. hostility or rudeness, failure to comply with attendance or time-keeping requirements. Examples of misconduct are contained in Appendix 2.

- 8.4 Cumulative or repeated acts of misconduct may lead to dismissal with notice in situations where an act of misconduct is committed while an earlier warning is still in force.

9. ABOUT THE PROCEDURE

Confidentiality

- 9.1 At all stages of the procedure confidentiality must be observed. Circulation of information will be to those necessary to ensure a fair investigation and hearing. Unnecessary disclosure of confidential information at any stage could itself be a justification for disciplinary action.

Records

- 9.2 Where a sanction is imposed records of proceedings must be kept on the employees file and managed appropriately. Tape recording of meetings is not permitted. Headteachers should keep their own records and Schools HR should retain a record and the outcome retained on the employee's personal file. Retention periods are dealt with later in this procedure.

Trade Union Representative

- 9.3 Where an employee under investigation is a representative of a recognised trade union, the local Branch Secretary for support staff or regional official for teaching staff, of that union must be informed before proceedings commence, except where immediate action may be required e.g. suspension. In any event, Schools HR should be consulted about cases involving trade union representatives before any action is taken under this procedure.

Discipline and Grievance

- 9.4 Employees cannot generally raise a grievance to complain about or object to the fact that the school may take disciplinary action, including the fact that the school is commencing or contemplating commencing the investigation stage of the procedure.
- 9.5 The only exception would be if the grievance was that the disciplinary action amounts to or would amount to unlawful discrimination, or that the true reason for the disciplinary action is not the reason given.
- 9.6 In such cases, consideration should be given to suspending the disciplinary procedure for a short period whilst this is looked into. The decision about whether or not to suspend the disciplinary action, and for how long, is at the sole discretion of the school.

- 9.7 In any cases involving the above, advice should be sought from the Schools HR before proceeding.

Criminal Offences

- 9.8 Sometimes an allegation about conduct at work or related to work, leads to criminal action against an employee, and/or an investigation by the police, or an external agency, and/or an investigation by the Council's Audit and Investigation section. In these circumstances (and subject to the exceptions in paragraph 9.9), the school is not obliged to await the final outcome of the criminal proceedings or of the external investigation, but are strongly advised to consult with the police before beginning disciplinary action. The School may conduct its own investigation and take its own disciplinary action. The school may however choose to await the final outcome of the criminal proceedings or of the external investigation before commencing its own disciplinary action. In such cases, the delay between the date of the alleged misconduct and the date of the commencement of disciplinary action will not be a reason for the school to forego disciplinary action.

Allegations of Child Abuse

- 9.9 Notwithstanding paragraph 9.8, and notwithstanding the general obligation on the school to act promptly, there will sometimes be over-riding reasons to delay the commencement of disciplinary action. For example, where there are allegations of abuse against children (whether or not in the course of employment), the needs of the child might have to be addressed and investigated as a priority before disciplinary action is commenced. Procedures for dealing with allegations of child abuse by school based staff are available separately. In every case advice must be sought from the Head of Access and Inclusion who will consult with the Local Authority Designated Officer for Child Protection to assess whether the allegation meets the threshold of significant harm. If so a child protection strategy meeting will normally be convened. Schools HR should be involved and invited to attend strategy meetings where appropriate.

Other Sensitive Allegations

There may also be specific legislation (for example regarding money laundering or terrorism), which prevents the school notifying the employee of the alleged misconduct. In such cases, the delay between the date of the alleged misconduct and the date of the eventual commencement of disciplinary action will not be a reason for the school to forego disciplinary action.

- 9.10 Criminal acts committed or alleged to have been committed, other than in the course of employment, may warrant disciplinary action where the offence affects the interest and / or reputation of the school and / or the performance of the employee's contract of employment or where the existence of the charge would seriously undermine the trust and confidence the employer must have in the employee.

- 9.11 Where disciplinary issues arise involving potential or actual criminal offences, advice should be sought from the Schools HR prior to making a decision.

Suspension

- 9.12 Suspensions must be authorised and carried out by headteachers (or their designated deputy when the headteacher is not on site) or the chair of governors. The employee should be told of the reason for the suspension. Where this is not possible, for example, where it may prejudice an investigation, then s/he should be given general or broad reasons. The employee should be told that suspension is a neutral act.
- 9.13 An employee may be transferred to other duties or suspended from duty during formal disciplinary proceedings. Where there is a possibility of a charge or dismissal for gross misconduct or where there has been a serious break down in relationships, or where it may not be suitable for the employee to remain at work i.e. if their presence could hinder or interfere with the investigation, or their presence at work potentially puts others at risk, then suspension would be appropriate. Decisions on this should be made by the headteacher or chair of governors.
- 9.14 Alternatives to suspension must be considered where feasible, for example, transferring the employee to another workplace, working from home, or special leave. Consideration should also be given to the potential detrimental effect of suspension on both the employee and the service. The reason as to why suspension is considered appropriate should be provided to the employee.
- 9.15 The suspension should be confirmed in writing within two working days of the act of suspension, with the reasons for the suspension.
- 9.16 Consideration should be given to suspending an employee from any other positions a person may hold with the school or with the Council or other Ealing schools, although alternatives to suspension must be considered as detailed above. Ealing Schools HR will be able to check whether an employee holds more than one contract of employment with the Council or Ealing schools.
- 9.17a If it is known that the employee is a trade union member, all reasonable steps should be taken to notify the employee's trade union representative prior to the suspension.
- 9.17b Reasonable efforts must also be made to enable the trade union representative/work colleague to accompany the individual, although this will not always be possible. Where possible a Schools HR representative should be present at the suspension meeting.

- 9.18 A suspension is a neutral act and should not be used as a punishment. An employee who is suspended pending a disciplinary investigation will be suspended on full contractual pay. NB: "Full contractual pay" means basic salary, contractual overtime and any contractual allowances but does not include voluntary overtime. This may also: include any authorized deductions (e.g. for payment of rent etc) and / or be at half or nil pay in accordance with the School's sick pay scheme and / or be at a rate of pay appropriate to any contractual variation in effect at the time.
- 9.19 All suspensions must be reviewed by the headteacher or chair of governors after 20 working days. Thereafter, a suspension must be reviewed every 20 working days and a written explanation provided for the continuation of the suspension, if the employee (or their representative) request it. The headteacher or chair of governors must act promptly to lift the suspension if it becomes clear that there is no longer a justification for suspension (whether or not the disciplinary action is to continue).
- 9.20 Employees who are suspended will not be permitted to enter the school site except by prior agreement with the headteacher or chair of governors. They must also not contact work colleagues during working hours by any means or for any reason, unless they have express written permission from the school to do so. Employees must make themselves available as required during normal working hours and comply with the school's policies and procedures, e.g. sickness and leave arrangements.

10. **INFORMAL ACTION**

- 10.1 The following section deals with minor disciplinary issues and should not be used for cases involving serious or gross misconduct, where formal action should be instigated immediately. Performance issues should be dealt with under the School's Capability Procedure.
- 10.2 Cases of minor infringement of rules and standards should be dealt with through counselling, management guidance, informal warnings, instructions and training; rather than the formal Disciplinary Procedure. The school manager should confirm informal discussions and action to the employee in writing.
- 10.3 Before taking any formal disciplinary action, if appropriate, line managers should initially try and resolve the matter informally through discussions with the employee as part of their day-to-day management responsibilities. For example, this may involve counselling, training, setting clear standards for attendance and conduct and so on.
- 10.4 Where improvement in attendance or conduct is required, the employee should be told what standards are expected, how this will be reviewed and over what time period. Any informal disciplinary discussions should be noted, with a copy given to the employee concerned. Employees should also be made aware of

what action could be taken if they fail to improve. A trade union representative or work colleague may attend with the employee, if desired.

- 10.5 If the employee subsequently achieves the required improvements, then the employee should be informed of the need to maintain that improvement. A copy should be placed on his/her personal file. The employee may comment on the content of the note if he or she wishes, and this should also be placed on the personal file. This note will be disregarded after a period of 6 months.
- 10.6 Where the required improvement is not reached or maintained, then the informal action may be referred to in any formal action subsequently taken under either the School's disciplinary or capability procedures.
- 10.7 If during an informal meeting it becomes clear that the matter is more serious than first thought, the meeting should be adjourned and a decision made as to whether formal action should be taken immediately. Managers should contact their HR Advisor for further advice at this stage. The employee should be kept informed of any decisions and advised of any timescales.
- 10.8 Any informal action of a related nature can be referred to if the matter is subsequently referred for formal action under this Procedure.

11. FORMAL ACTION

- 11.1 The formal procedure is designed to be used only if attempts to resolve potential problems through normal supervision and discussion or informal action has been unsuccessful, or in cases of more serious misconduct. The object is to provide a framework for dealing with employees in a fair, equitable and expeditious manner.

Misconduct

- 11.2 Disciplinary action may be taken for misconduct and gross misconduct, examples of which are included at Appendix 2. The lists are not exhaustive.

Minor misconduct - Formal Verbal Warning procedure

- 11.3 If despite informal discussions, conduct does not meet acceptable standards, employees may be given a verbal warning. A formal verbal warning may also be given if appropriate, as a sanction for minor forms of misconduct without prior warning.
- 11.4 The employee's line manager should arrange to interview the employee concerned on a one to one basis. (See procedure for the meeting at Appendix 1). An employee has the right to be accompanied by a trade union representative or work colleague.

- 11.5 If the outcome of the meeting is that a verbal warning should be given, then the manager will advise the employee of the reason for the warning, that the warning is the first stage of the disciplinary process, the improvements required and any time periods.
- 11.6 Employees should also be advised of their right to appeal against the decision to the headteacher, or if the headteacher made the decision, to the governing body appeal panel, within 5 working days of the verbal warning being given.
- 11.7 A brief note of the warning will be kept on the employee's personal file and a copy given to the employee. However, the warning will lapse after six months, subject to satisfactory conduct.
- 11.8 If the misconduct persists managers should consult their HR Advisor with a view to proceeding with other formal action, as excessive use of verbal warnings must be avoided.
- 11.9 Where a manager becomes aware of alleged or suspected serious misconduct by an employee, it should be reported to the headteacher and advice should be sought from the Schools HR. In all cases an investigation should be carried out. Suspension should also be considered where appropriate (see paragraphs 9.12 to 9.20 above).

12. DISCIPLINARY INVESTIGATION

- 12.1 The headteacher will appoint a person to investigate normally within **5** working days of the initial referral. It is important that investigations are undertaken promptly. The investigating officer must have had no prior involvement in the matter.
- 12.2 The Investigating Officer will usually be the employee's manager (or a member of the school's leadership team) although the school has the right to appoint any suitable employee, or in exceptional cases, a suitably qualified third party. Employees are required to co-operate with any investigation and, if requested to do so, to attend an investigation meeting at which they may be represented by a trade union representative or work colleague.
- 12.3 Schools HR will be available to advise the investigating officer. Schools HR should also ensure that the Investigation officer is advised on any legal aspect or other sensitive aspects of the case.
- 12.4 Managers must consider whether any reasonable adjustments need to be made to the disciplinary process and appropriate arrangements made to meet any special needs. For example, an employee with a learning disability may ask if a friend can attend the hearing. It is permitted as a reasonable adjustment.

- 12.5 The purpose of the investigation is to establish:
- The nature of the alleged misconduct;
 - The employee's response;
 - Any supporting evidence and,
 - Any other relevant circumstances.
 - Whether or not there is a case to answer
- 12.6 The Investigating Officer will make a recommendation either that specific allegations should be dealt with at a formal hearing, or that there should be no formal disciplinary action.
- 12.7 In all cases, the Investigating Officer conducting the investigation should be as objective as possible and not pre judge the issues of the case. The Investigating Officer will also need to determine whether any other parties should be involved such as Audit and Investigation Officers or the police and liaise with them accordingly.
- 12.8 The Investigating Officer should interview all the parties involved separately. Statements should be obtained from witnesses at the earliest opportunity and records kept of what was said. Where reasonably possible, notes of what was said will be supplied to the interviewee(s) who will be invited to confirm their agreement. However, the Investigating Officer can refer to the notes even if it is not reasonably possible to send copies to the interviewees, or if the interviewee fails to confirm agreement. Where the interviewee seeks to amend the note of what was said, then the Investigating Officer's report will comment on whether s/he agrees that the interviewee's amendment is merely correcting an inaccuracy in the original notes, or is in the Investigating Officer's opinion, providing new evidence.
- 12.9 It may be necessary to interview parents or other members of the public, the police, children or vulnerable clients, Audit and Investigation etc. In such cases advice should be sought from the Schools HR. Where it is necessary to interview children parental consent must first be obtained. When investigating allegations of child abuse the investigating officer should be informed of the outcome of any child protection strategy meetings in order that any recommendations made can be taken into account in the disciplinary investigation. e.g allegations dealt with under the procedure for dealing with allegations of child abuse against school staff. The Investigating Officer should ensure that any enquiries are not open to subsequent charges of collusion. For example, it is inappropriate to talk to individuals informally about an alleged incident and then send them away to think about it before taking a formal statement. It is also important that witnesses are interviewed separately.
- 12.10 The investigation should be completed as soon as possible, after the alleged misconduct depending on the complexity of the case, and the availability of witnesses and evidence. Except in exceptional circumstances, it should normally be completed within **20** working days, following appointment of the

Investigating Officer. The outcome of the management investigation should be discussed with the headteacher. Where it has not been possible to interview the employee during the investigation, then the Investigating Officer should consider deferring production of the report for a short while until that has been done. However, while the Investigating Officer will normally meet the employee that is not always essential. In particular, if there is evidence that the employee would be unable to attend a meeting in the immediate future, then it is permissible for the Investigating Officer to finalise their report in the absence of a meeting. In such cases, the employee should have the opportunity to make written representations if practical.

- 12.11 The Investigating Officer will draw up a report of the investigation and provide a recommendation as to whether or not they feel there is a case to answer. If there is a case to answer then a disciplinary hearing will be convened. This should normally be completed within **10** working days. If as a result of the investigation it is found that formal disciplinary action is not appropriate, the headteacher (or chair of governors in cases involving the headteacher) should decide whether any other action is necessary in accordance with school procedures or other guidelines (e.g. Medical Capability Review). The employee should be notified of any decision in writing, normally within **5** working days of the completion of the decision.
- 12.12 If no further action is taken, records of the investigation will be removed from the employee's personal file, except where there are allegations involving children, in which case the paperwork will be retained at least until the person reaches normal retirement age or for a period of 10 years from the date of the allegation if that is longer (in accordance with DCSF guidance). A copy of the investigation itself will be retained by the headteacher and kept in accordance with all other employee relations' cases.
- 12.13 The Investigating Officer's report should set out the allegations. These should set out in detail every aspect of the misconduct, including the type of misconduct (see appendix 2; times and dates, and where appropriate, refer to the standard the employee is alleged to have breached (for example, by referring to relevant sections of the Code of Conduct).

13. DISCIPLINARY HEARING

- 13.1 If the investigation confirms that there is a case to answer, then a Disciplinary Hearing will be arranged. The headteacher should report the decision to the chair of governors. The chair of governors should then consider whether it is appropriate for the headteacher to hear the matter or whether any aspect of appendix 5 applies. The hearing will normally be arranged within **10** working days of the investigation being completed. Governing body disciplinary panel hearings may however take longer to arrange. The Headteacher will hear the case (except in cases involving the headteacher) and will make the arrangements to hold the hearing with advice from Schools HR. It is important that the Hearing Officer is impartial and has not had any previous involvement in

the case. Where the allegations may lead to dismissal then a Schools HR representative should attend.

- 13.2 Arrangements to hold a Disciplinary Hearing will then be made in accordance with the following paragraphs.
- 13.3 The headteacher should make arrangements for a clerk to attend and to take notes on their behalf, a copy of which will be made available to the employee.
- 13.4 A Schools HR representative may attend to provide advice on procedure and practice to the Headteacher or governing body disciplinary panel, and ask questions for clarification where appropriate.
- 13.5 The Investigating Officer will normally present management's case at the disciplinary hearing.
- 13.6 The Headteacher must have had no prior involvement in the investigation and the Investigating Officer, HR Adviser, clerk, or employee's representative, should not be anyone who is implicated in the case.
- 13.7 The Headteacher must inform the employee by letter, at least **5** working days before the Hearing of the following:
 - The date, time and place of the hearing;
 - The details of the alleged misconduct including whether it is deemed minor, serious or gross as well as the possible consequences including where relevant dismissal;
 - The identity of the manager who will be presenting the case;
 - The right to be accompanied by a trade union representative or work colleague;
 - The right to call witnesses and to produce relevant information;
 - Enclose a copy of the disciplinary procedure (Appendix 3), together with any supporting evidence (including the report of the Investigating Officer) if the case is particularly lengthy or complex then longer notice should be given;
 - Notification that the Investigation Officer may call some or all of the witnesses who are referred to in the report. If the employee specifically wants to question any witnesses, then the employee should notify the Headteacher or governing body disciplinary panel chair and the Investigating Officer immediately, who may then choose to invite that witness to attend.
- 13.8 An employee may choose to submit written evidence prior to the disciplinary hearing. This must be provided to the headteacher or governing body disciplinary panel chair and officer presenting the case at least **3** working days before the date of the disciplinary hearing, and include the names of any witnesses the employee proposes to call.

13.9 Evidence produced later than the timescales mentioned above will not necessarily be considered. The Headteacher or governing body disciplinary panel chair has discretion to allow evidence that has been submitted late in exceptional circumstances, having heard representations from both parties, and having taken into account the reasons for the delay, the importance of the evidence and whether or not a short postponement would be a fair and practical alternative to complete exclusion of the evidence.

Non-attendance by Employee

13.10 If the employee does not attend the disciplinary hearing, the hearing may either proceed in their absence or be adjourned, taking into account the reasons for the non-attendance. If the reason for not attending is non-availability of an employee's representative refer to paragraphs 3.2 and 3.3 of this procedure.

13.11 If non-attendance is due to a medical reason, the employee must inform the Hearing Officer as soon as possible. Written confirmation together with a medical certificate must be submitted. The employee may also be referred to Occupational Health to ascertain whether they are fit to attend the hearing.

13.12 If it is decided to adjourn the disciplinary hearing, the hearing will be rearranged. If the employee again fails to attend, the hearing will normally go ahead in their absence after considering all the circumstances of the case. This should be confirmed in the letter to the employee setting out details of the reconvened hearing. Where an employee is unable to attend, they may arrange for representation at the hearing in their absence, or make written submissions.

Disciplinary Hearing Procedure

13.13 The disciplinary hearing will be conducted in accordance with the arrangements set out in Appendix 3. The headteacher or governing body disciplinary panel chair should ensure that all the relevant facts have been presented by both parties prior to summing up and may decide that further information / witnesses are required. The Headteacher or governing body disciplinary panel chair may adjourn the hearing where appropriate for any reason. The parties will be given reasonable notice of the hearing being reconvened, and at least **5** working days notice of this. The Headteacher or panel chair will make the final decision on any matters raised at the hearing.

Decision

13.14 A decision will be taken following careful consideration of the evidence provided by both parties. Following completion of the disciplinary hearing, all parties other than the headteacher or panel chair, the Human Resources representative and the note taker will withdraw.

- If a decision is reached quickly, the Headteacher or panel chair may recall the parties to give this decision orally, and confirm in writing, within **5** working days of conclusion of the disciplinary hearing.

- If a decision is delayed or postponed, the headteacher or panel chair will inform the parties of the decision in writing, within **5** working days of conclusion of the disciplinary hearing. Ideally the notes of the disciplinary hearing should accompany the letter, however, if these are not available they should be sent as soon as possible.

Disciplinary Measures/Outcomes

13.15 Disciplinary measures/outcomes that may be reached are as follows:

a) No Disciplinary Action to Be Taken

In which case all correspondence relating to the hearing should be removed from the individual's personal file. The only exception being cases where there are allegations involving children in which case the paperwork will be retained in accordance with 12.12. The employee concerned and manager presenting the case should still receive confirmation of the outcome in writing, but should be advised, where appropriate, that no record (other than the above) has been kept on the personal file.

b) A Formal Warning

This will be recorded and the employee should be advised that any further disciplinary lapse could result in further disciplinary action including dismissal. In reaching a decision about which sanction to apply, the headteacher or disciplinary panel should take into account all of the circumstances of the case.

c) A Final Written Warning

The employee should be advised that any further disciplinary lapse could result in further disciplinary action, including dismissal. In exceptional circumstances, an indefinite final written warning may be given (see paragraph 13.8 below).

d) Relegation to a Lower Point within the Employee's Grade

Where a member of support staff is considered to be blameworthy of (an) allegation(s) but there are deemed to be mitigating circumstances to justify disciplinary action short of dismissal, the sanction may be relegation (downgrading). The relegation could also be accompanied by a transfer to a new work area, together with a final written warning. The relegation may be in a different work area / job and payment will be commensurate to the grade of the new post. The date this will take effect from should be provided.

e) A Combination of (b) to (d) above.

f) Demotion and/or Transfer (as an Alternative to Dismissal) to a Similar or Lower Graded Post

A transfer may be considered appropriate in circumstances where it would not be appropriate to allow the employee to return to their former work area. In cases of gross misconduct this would only be appropriate if there is substantial mitigation. A transfer would normally be accompanied by a written warning. Before reaching such a decision, the headteacher or disciplinary panel must be content that there is a suitable vacancy into which the employee can transfer.

For support staff payment would be made at the grade or pay rate applicable to the new job and not the rate applicable to the employee's previous job. If the employee refuses to accept the new employment then the original dismissal will stand. Where demotion or transfer or a member of support staff is proposed as an alternative to dismissal, payment will also be made at the rate applicable to the new job. An employee's refusal to accept such an offer will result in dismissal. If gross misconduct then dismissal will be without notice and in all other cases dismissal with notice.

g) Dismissal With or Without Notice

Dismissal is an appropriate sanction for very serious misconduct, or for further misconduct after previous warnings. Other than for gross misconduct, dismissal is with notice. In cases of gross misconduct, the School has the right to dismiss summarily (i.e. without notice).

Live Warnings

13.16 Warnings will cease to be "live" following the specified period of satisfactory conduct, except in cases involving children or other vulnerable clients (see paragraph 12.12). They will be disregarded for future disciplinary purposes only, but will be retained on an employee's personal file **for 5 years**, following which they will be expunged. The following time periods shall apply to formal warnings and in the event that an employee leaves the School, it will expire after the same time period:

- Formal verbal warnings will be disregarded after 6 months of satisfactory conduct:
- Formal written warnings will be disregarded after 12 months of satisfactory conduct:
- Formal final written warnings will be disregarded after 18 months of satisfactory conduct.

13.17 In all cases where a formal verbal or written warning is given to an employee, the employee will be notified in writing of the period over which the warning will be regarded as "live". A spent warning should be disregarded only for the purpose of future disciplinary proceedings. For other managerial purposes (e.g. appointments including promotions and secondments, references), the warning would remain on the record and be taken into account as appropriate for a period of 5 years, after which it will be expunged.

Written Notification

13.18 The letter to the employee should normally be sent within **5** days of the disciplinary hearing, together with a copy of the notes of the hearing. The outcome letter must set out the following if relevant:

- The reason for the decision and the disciplinary sanction; covering details of the allegations, including which were upheld and why, the factual issues covered, how the decision was reached, which version of events was preferred and why this was;
- The implications and consequences of future misconduct;
- Recording arrangements for disciplinary warnings;
- The date (if any) from which any written warning or final written warning will be disregarded for the purposes of this procedure (in exceptional circumstances such warnings may be effective indefinitely);
- The effective date of dismissal;
- The right of appeal and,
- Any further action required, including the lifting of suspension (where appropriate) and date of return to work, relegation, training, standard setting etc.

14. APPEALS

The appeal stage forms part of the statutory procedure and, whilst there is no compulsion on an employee to appeal, an employee has the right of appeal against disciplinary action taken under this procedure. An employee may appeal for a range of reasons, including:

- The process followed was flawed;
- The disciplinary sanction was not appropriate and/or reasonable in all the circumstances and / or;
- New evidence has come to light.

14.2 The intention to appeal must be registered within **5** working days of the date of the letter informing the employee of the outcome of the disciplinary hearing, and should be sent to the headteacher. The grounds for the appeal, specifying the reasons should follow within a further **10** days (i.e. within **15** days of the date of the outcome letter), If not received within this timescale then the employee will be deemed to have failed to appeal and no further action will be taken in relation to the notice of appeal. If the employee wants a short extension of time for lodging the full grounds of appeal, then the employee must make a written request with reasons within the time limit. The request will normally be granted where there is good reason. The duration of the extension will be at the discretion of the chair of the appeal panel, but will not normally be longer than **20** working days.

14.3 Appeals against disciplinary action will be heard by the governing body appeal panel. This should be a panel of three governors who have not previously been involved in the case. The panel may be supported by a Human Resources Representative (see procedure at Appendix 4).

14.5 If an employee lodges an appeal against dismissal, then the employee will not be reinstated, nor be entitled to have the termination date delayed, pending the outcome of the appeal hearing.

Timing of Appeal Hearing

- 14.6 The Appeal Hearing will be normally held no later than **20** working days from receipt of the notice of appeal or of the full grounds of appeal. The employee and (if appropriate) their representative, will be given at least **5** working days written notice of:
- The date, time and place of the hearing;
 - Details of the or panel hearing the appeal;
 - The employee's right to attend and be represented at the appeal by a trade union representative or work colleague.
- 14.7 Provided the employee has been given the appropriate notice of the date of the hearing, the appeal may be considered on the basis of the available evidence in the absence of the individual.

Appeal Hearing Procedure and Process

- 14.8 Appeal Hearings will be conducted in accordance with the arrangements set out in Appendices 4 and 5. The appeal hearing will take the form of a review of the original hearing and not a full rehearing of the issues. The appeal hearing should address the arguments set out in the grounds of appeal and determine whether the decision made at the original hearing was reasonable in all the circumstances.
- 14.9 The headteacher or chair of the original disciplinary hearing will prepare a statement in response to the employee's submission. This should be provided to the employee within **10** working days of receipt of the notice of the appeal or of the full grounds of the appeal, if sent later. If further clarification or elaboration is considered necessary, either or both parties will be asked to provide this information, at least **2** working days before the appeal hearing.

Outcomes

- 14.11 **Possible outcomes of Appeal Hearing considering appeals against a warning:**
- i) A decision to uphold the employees appeal and either revoke the decision completely or impose a lesser sanction;
 - ii) Deny appeal and confirm decision to issue reprimand, warning or withhold annual increment;
 - iii) Submit case back to employing department for a new hearing
- 14.12 The decision of the governing body appeal panel will be final.

14.13 Possible outcomes of the Appeal Hearing considering appeals against demotion or dismissal are:

- i) An adjournment to allow for additional evidence and/or witnesses and/or information to be made available;
- ii) A decision to uphold the employee's appeal and either revoke the decision completely or impose a lesser sanction;
- iii) To make any other appropriate recommendation;
- iv) Any combination of the above or;
- v) To submit the case back for a new hearing by a newly constituted governing body disciplinary panel (In the event that the panel believe that a disciplinary hearing was so faulty as to render the decision unsafe OR that important evidence was either not available or not appropriately considered at the original hearing AND feel unable to rehear the case and/or substitute a new decision for the original then the case may be remitted for a new hearing subject to the agreement of all parties to cooperate) or;
- vii) To deny the appeal and confirm the relegation/dismissal.

The appeal panel will not, however, be empowered to impose a more severe penalty than that imposed at the original disciplinary hearing.-

14.14 The decision of the governing body appeal panel will be final.

Notification of Decision

14.15 The decision will be given orally on the day of the hearing, unless it is not practical to do so. In all cases, the decision of the appeal will be confirmed in writing within **5** working days of the conclusion of the hearing.

14.16 Where the disciplinary action is rescinded, all records will be removed from the employee's personal file and destroyed except in cases involving children and other vulnerable clients. A copy of the investigation will be retained in accordance with Schools HR record keeping practices.

15. MONITORING AND REVIEW

15.1 This procedure will be reviewed on a regular basis and changes and improvements made where necessary by the Schools HR. The employees and recognised trade unions will be consulted on any proposed changes to this procedure,

Appendix 1

1. Initial Disciplinary Action - Informal Verbal Warning

- 1.1 It is important that minor incidents of misconduct or poor working practice are dealt with quickly as soon as they arise. Firstly, so the employee is made aware of the problem and given the opportunity to correct it, thus removing the need for further formal disciplinary action. Secondly should there be further incidents it can be demonstrated that the employee's attention has been drawn to the problems and the expected standards explained to them.
- 1.2 Action taken can be in the form of an informal verbal warning that sets out what standards are required of the employee, depending on the nature and extent of the problem.

Procedure:

- 1.3 An informal verbal warning is appropriate for isolated or minor incidents of misconduct. In relation to the process, the employee's line manager should arrange to interview the employee concerned on a one to one basis. An employee has the right to be accompanied to this meeting by a trade union representative or work colleague.

Meeting:

- 1.4 The procedure for the meeting should take place as follows:
- 1.5 At the outset of the meeting, the manager should advise the employee of the reason for the discussion and reminded of the standards expected of him/her for improvement in working practices, attendance or conduct e.g., lateness, failure to follow procedures etc. Where appropriate, issue an informal verbal warning, advising her/him that any further incidents could lead to further formal disciplinary action being taken. The manager should try and establish why this breach has occurred and explore any underlying reasons for the misconduct/poor working practices with the employee and provide support as appropriate e.g. training or coaching.
- 1.6 The employee should be told the period of time the school intends to allow for improvement of conduct and what will happen if they do not improve within this period. If appropriate, the employee should be advised that it might be necessary to proceed to the next stage of the formal disciplinary procedure.
- 1.7 A record should be kept of the informal verbal warning and any actions recommended should be confirmed to the employee in writing and a copy placed on the employee's personal file. The employee may comment on the content of the note if s/he wishes and this should also be placed on the personal file.

- 1.8 If the required standards are reached then this should be confirmed in writing to the employee and a copy placed on the personal file for six months. If the required standards are not reached/maintained, then the manager may issue a further informal verbal warning or proceed to other formal disciplinary action as appropriate.
- 1.9 Verbal warnings and standard setting letters may be used as evidence in formal action taken under either the disciplinary or capability processes and procedures.

Appeal process:

- 1.10 The employee must appeal within **5** working days of the informal verbal warning being given to the headteacher.
- 1.11 Any appeal must be in writing and clearly state the reasons. Employees cannot appeal against the right of the manager to issue a verbal warning only about whether the warning was justified in all the circumstances.
- 1.12 The Appeal Hearing should take place within **14** days of receipt of the full grounds of appeal.

Appendix 2

Types of Misconduct

Gross misconduct

If an employee is found guilty of gross misconduct then the normal consequence will be dismissal without notice. Offences of the following nature are likely to amount to gross misconduct.

- Serious failure to comply with or operate the School's Equality and Diversity policies. Examples include; serious acts of discrimination, harassment, or verbal abuse against employees, clients, parents or members of the public on grounds of race, sex, disability, age, sexual orientation or religious beliefs; the display or circulation within the workplace or school community of any literature or material (such as pornographic or racist materials) via any medium that could offend other persons;
- Serious bullying or harassment;
- Serious infringement of the school's Health & Safety policy, procedures or guidance;
- Serious failure to comply with or operate the school's Code of Conduct e.g. holding unauthorised paid employment during paid school time; conducting inappropriate relationships with vulnerable clients; not declaring a personal interest which may infringe the employee's impartiality;
- Serious negligence that causes or might cause unacceptable loss, damage or injury;
- Bringing the reputation of the school into serious disrepute;
- Incapability whilst on duty brought on by alcohol or illegal drugs;
- Serious failure to comply with or operate the school's information systems and security standards e.g. gaining unauthorised access to passwords and breaches of the use of the email and internet policy including emails with pornographic attachments;
- Serious breach of financial regulations or procedures;
- Unauthorised removal, possession, use or theft of property belonging to the school, an employee, client, parent or member of the public;
- Acts of violence including the assault of an employee, client, parent or member of the public during working hours or in connection with their employment of work;
- Falsification of qualifications or information to obtain employment with the school or which are a statutory or essential requirement of employment or which result in additional remuneration;
- Deliberate falsification of records i.e. attendance sheets, timesheets, subsistence and expense claims etc;
- Acceptance of bribes or other corrupt or fraudulent practices;
- Defrauding the school, the Council, or any other Council e.g. in relation to housing or council tax benefit, grants and housing property;
- Disclosure of highly confidential matters to public sources or the deliberate unauthorised use or disclosure of any information or computer generated

information from which a living individual can be identified (Subject to the Public Interest Disclosure Act 1998);

- Committing a criminal or civil offence at or away from work that renders the employee unsuitable to remain in the school's employment or which may seriously damage the school's reputation. Or where there are reasonable grounds to believe that a serious criminal offence has been committed which may be connected or unconnected with their employment.

Other types of misconduct:

Other types of misconduct are listed below (the list is not exhaustive). These will usually result in a sanction that is less than dismissal, but dismissal may sometimes be the result depending on the circumstances and/or in cases where the misconduct is repeated.

- **Attendance and Time-keeping**
Failure to comply with attendance and time-keeping requirements;
Failure to follow procedures for booking and returning from leave;
Persistent absence and/or excessive absence without medical reason.
- **Telecommunications related issues**
Abuse of telephone, fax, e-mail or Internet for personal reasons;
Inappropriate use of e-mail or Internet (gross misconduct in serious cases);
Recording conversations or meetings without having been given permission by the employee/manager concerned.
- **Behaviour**
Failure to follow a legitimate management instruction;
Prolonged time-wasting;
Inappropriate behaviour towards a colleague, manager, pupil or a person in the care or charge of the school, parent or member of the public (gross misconduct in serious cases).
- **Poor Working Practices**
Failure to maintain proper records;
Failure to follow school procedures e.g. financial regulations, safety standards.
- **Malicious complaints/grievances made against another employee or manager** (gross misconduct in serious cases)
- Other breaches of the school's Code of Conduct.

Appendix 3

Procedure to be followed at Disciplinary Hearings

- 3.1 The headteacher or chair of the governing body disciplinary panel will invite both parties into the room at the same time, introduce all parties present and explain the purpose of the hearing. Both parties should be asked if they intend to bring witnesses, although failure to name witnesses at this stage does not mean that they cannot be called later within the hearing.
- 3.2 The employee will then be asked to state whether s/he admits or denies the allegations.

Where employee admits the allegations

- 3.3 If the employee admits the allegations, the employee will be invited to present any mitigating circumstances to the headteacher/disciplinary panel. The presenting manager, the headteacher or panel members and the HR Advisor may then ask questions of the employee in turn.
- 3.4 In addition, the headteacher/disciplinary panel may require that witnesses/evidence should be called/produced in order to ensure that all the necessary facts can be considered before making a decision on the case. The headteacher/disciplinary panel may decide to adjourn the hearing to allow for this if necessary.
- 3.5 It is for the headteacher/disciplinary panel to manage the process and intervene where appropriate.

Summing - up stage

- 3.6 Both parties will then have an opportunity to sum up, with management summing up first, followed by the employee/representative. This summing up may take into account statements made during the proceedings, but may not introduce new evidence.

Deliberation

- 3.7 The headteacher/disciplinary panel will then ask both parties to withdraw apart from the HR Advisor and note taker. The headteacher/disciplinary panel should indicate to the parties whether they should wait to be recalled for the decision. The headteacher/disciplinary panel should then reach a decision on the basis of the evidence presented in the course of the hearing with advice from the HR Advisor as necessary.

The Decision

- 3.8 The headteacher/disciplinary panel chair may give the decision verbally at the end of the Hearing or in writing later. In any event the decision must be

confirmed in writing, within 5 working days of the Hearing, to the employee and copied to their representative and to the manager presenting the case. The HR Advisor will provide advice on the content of the outcome letter.

Where employee denies allegations

Management presentation with witnesses

3.9 The management representative will present the case.

3.10 The other parties may ask questions on the presentation in the following order:

- Employee and/or trade union representative/work colleague;
- Headteacher/disciplinary panel members;
- HR Advisor.

3.11 The manager presenting the case will then call witnesses.

3.12 The other parties may ask questions of the witnesses in the following order:

- Employee and/or trade union representative/work colleague
- Headteacher/disciplinary panel members
- HR Advisor.

Employee's presentation with witnesses

3.13 Following completion of the management case, the presentation is then reversed, with the employee and/or trade union representative/work colleague having the chance to put their case. Questions may be asked on this presentation by the presenting manager, the Headteacher/disciplinary panel members and the HR Advisor in that order.

3.14 The employee/trade union representative/work colleague will then call witnesses. The headteacher/disciplinary panel chair will explain to the witness the procedure to be followed.

The employee/trade union representative/work colleague may then ask questions of the witness. The other parties may ask questions of the witnesses in the following order:

- Manager presenting the case;
- Headteacher/disciplinary panel
- HR Advisor.

3.15 Following questioning by the other party, witnesses may be re-examined once more by the manager, employee (trade union representative/work colleague), headteacher/disciplinary panel members or HR advisor, if necessary, to clarify any points raised during the cross-examination.

- 3.16 It is for the headteacher/disciplinary panel chair to manage the process and intervene where appropriate.
- 3.17 Once each party has completed their questioning, witnesses should not normally, be recalled. However, the headteacher/disciplinary panel has the right to recall witnesses or seek further information if this is required. If this does happen, both sides should be recalled into the hearing. In addition, the headteacher/disciplinary panel may require that other witnesses/evidence should be called/produced in order to ensure that all the necessary facts can be considered before making a decision on the case. The headteacher/disciplinary panel may decide to adjourn the hearing to allow for this if necessary.

Summing - up stage

- 3.18 Both parties will then have an opportunity to sum up, with management summing up first, followed by the employee/representative. This summing up may take into account statements made during the proceedings, but may not introduce new evidence.

Deliberation

- 3.19 The headteacher/disciplinary panel chair will then ask both parties to withdraw apart from the HR Advisor and clerk. The headteacher/disciplinary panel chair should indicate to the parties whether they should wait to be recalled for the decision. The headteacher/disciplinary panel should then reach a decision on the basis of the evidence presented in the course of the hearing with advice from the HR Advisor as necessary

The Decision

- 3.20 The headteacher/disciplinary panel chair may give the decision verbally at the end of the Hearing or in writing later. In any event the decision must be confirmed in writing, within 5 working days of the Hearing, to the employee and copied to their representative and to the manager presenting the case. The HR Advisor will provide advice on the content of the outcome letter.

Appendix 4

The Disciplinary Appeal process

- 4.1 The intention to appeal must be notified to the headteacher within 5 working days of the date of the written confirmation of disciplinary action. The headteacher will arrange for a hearing of the governing body appeal panel to take place following receipt of the full grounds of appeal.
- 4.2 The appellant must then provide a written statement outlining in detail the grounds of the appeal against the decision together with any supporting documentation within 15 working days of receipt of the written confirmation of the disciplinary action. The appellant should clearly state with full reasoning, the basis on which s/he believes the decision to be at fault (i.e. why s/he believes that the procedure was incorrectly applied and/or that the evidence did not substantiate the allegations and/or that the sanction is too severe and/or that specific relevant evidence was not available or was not taken into account at the original hearing). No hearing shall be arranged until such a detailed statement has been received.
- 4.3 If further information, clarification or elaboration in support of the case is considered necessary, then the appellant will be asked to provide this information at least 3 clear working days before the date set for the appeal hearing if it is to be used. A hearing will be arranged and the employee notified of the date, time and place of the hearing.
- 4.4 The employee shall be given notice in writing at least five working days in advance of the time and place of the hearing that: s/he shall be allowed to be represented by his/her trade union representative, a work colleague or other representative of his/her choice and; may call witnesses and; refer to previously submitted documents relevant to his/her appeal; at the hearing. The employee will also be informed that the appeal hearing will not be a full rehearing of the case and that s/he should restrict his/her presentation to arguments about the reasonableness of the decision and/or procedural faults or failure.
- 4.5 The governing body appeal panel should ensure that there is clerk to take notes. The appeal panel chair will invite the parties into the room, introduce all parties present and explain the purpose of the hearing. The appeals process will not normally take the form of a rehearing and witnesses will only be allowed with the permission of the hearing officer and where it is relevant to the issue of the appeal. Both parties should therefore be asked if they intend to bring any witnesses. Failure to name witnesses at this stage does not mean that they cannot be called later within the hearing
- 4.6 The management representative(s) will present his/her justification of the disciplinary decision, in the presence of the appellant and his/her representative. The management representative(s) may also call witnesses to the appeal hearing.

- 4.7 The appellant (or his/her representative) will then have the opportunity to ask questions of the management representative on the evidence given by him/her and any witnesses whom s/he may call.
- 4.8 The members of the panel may ask questions of management's representatives and witnesses.
- 4.9 The appellant (or his/her representative) will present his/her case against the reasonableness of the disciplinary decision in the presence of the schools's representative and to call such witnesses as s/he wishes.
- 4.10 The management representative will then have the opportunity to ask questions of the appellant and his/her witnesses.
- 4.11 The panel may ask questions of the appellant and his/her witnesses.
- 4.12 The management representative and the appellant (or his/her representative) will then have the opportunity to sum up their case if they so wish.
- 4.13 The panel supported by the Human Resources Advisor will deliberate in private only recalling the management representative and the appellant to clear points of uncertainty on evidence already given. If recall is necessary both parties are to return notwithstanding only one is concerned with the point giving rise to doubt.
- 4.14 Courses of action open to the appeals panel are:
- i) An adjournment to allow for additional evidence and/or witnesses and/or information to be made available;
 - ii) A decision to uphold the employee's appeal and either revoke the decision completely or impose a lesser sanction;
 - iii) To make any appropriate recommendation;
 - iv) Any combination of the above; **or**
 - v) To submit the case back to the headteacher for a new hearing (In the event that the panel believe that a disciplinary hearing was so faulty as to render the decision unsafe OR that important evidence was either not available or not appropriately considered at the original hearing AND feel unable to rehear the case and/or substitute a new decision for the original then the case may be remitted for a new hearing subject to the agreement of all parties to cooperate); **or**
 - vi) To deny the appeal and confirm the disciplinary sanction;
- 4.15 The appeal panel will announce the decision to the management representative and appellant personally if practical and this will in any case be confirmed in writing together with the reasoning behind the decision. The employee will also be reminded that there are no further rights of appeal.

Appendix 5

Alternative Arrangements

- 5.1 In certain circumstance the governing body may feel that it is not appropriate for the head teacher to exercise delegated responsibility for staff disciplinary matters and may consider applying alternative arrangements. This would involve a governing body disciplinary panel exercising responsibility. The circumstances in which delegated responsibility for staff disciplinary matters may be exercised by the governing body are as follows:
- 5.2 Where the head teacher has been directly involved in disciplinary procedures leading to dismissal (other than in initiating an investigation), has had some prior involvement in an issue of misconduct involving a member of staff which could be seen to prejudice a headteacher's impartiality, or is a witness of particular conduct giving grounds for the dismissal in question.
- 5.3 Where a head teacher is subject to suspension, disciplinary or capability procedures, or disciplinary sanction.
- 5.4 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.
- 5.5 Where the head teacher has failed to abide by financial limits agreed by the governing body for any school purpose.
- 5.6 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 would give the existing head teacher the option of preserving their 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).
- 5.7 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. The head teacher should have the opportunity to make representations on any decisions to discontinue or continue delegated responsibility.

Appendix 6

Flow Chart - Disciplinary Procedure

