

SOUTH DARLEY C.E.
PRIMARY SCHOOL



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SOUTH DARLEY C of E PRIMARY SCHOOL

DISCIPLINARY PROCEDURE FOR SCHOOL STAFF

Person/Committee responsible for reviewing/updating this plan	Full Governing Body
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Date of Review	Governors Meeting Reference Number	Approved by name	Comments
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Disciplinary Procedure

1. Purpose

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

2. Scope

- 2.1 This disciplinary procedure has been determined by the Governing Body of South Darley CE Primary School 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.

3 Key Principles

- 3.1 The over-riding consideration of all investigations should be to investigate thoroughly and to address the issues as speedily as possible.
- 3.2 At any stage throughout the disciplinary procedure an employee is entitled to consult with and be represented by his/her Professional Association or Trade Union, colleague or friend.
- 3.3 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's Services 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.
- 3.4 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 2009 (See Appendix 3). The Governing Body may also take disciplinary action and in any case will always be responsible for disciplinary action involving the Headteacher.
- 3.5 Informal action will be considered where appropriate to resolve problems. As a general rule before the formal disciplinary process is invoked, and depending on the nature of the unsatisfactory conduct, 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. It is recommended that the employee be allowed access to support from a union/professional association representative, where appropriate during the informal action.

- 3.6 An employee will be advised of the nature of the complaint against him/her and will be given an opportunity to state his or her case before any decision is made.
- 3.7 As set out in the policy, employees and their named representative will be provided, with written copies of relevant evidence and relevant witness statements in advance of a disciplinary hearing.
- 3.8 An employee will have the right to appeal against disciplinary action taken.
- 3.9 At least 5 working days prior to the date of the hearing all parties will supply all other parties with any and all documentation and paperwork that will be referred to and relied upon at the Hearing.
- 4.0 For the purpose of this procedure "working days" shall mean Monday to Friday excluding bank holidays and begins with the day of receipt but does not include the day of the hearing.

Notice needs to be given and run, and Hearings need to be arranged in term time except for employees with 52 week contracts (unless the premises are closed) or where agreement has been reached with the employee and union representative for a different arrangement.

The Procedure

The following steps should be followed to address a potential disciplinary matter:

4. Improvement Process

Informal action should always be considered first when there are concerns about an employee's conduct. Cases of minor misconduct are usually best dealt with informally but where such action does not bring about improvement or the issue is more serious, formal action will be more appropriate.

When there is concern about the manner in which an employee is carrying out their duties and/or their general behaviour, it is anticipated that informal intervention and guidance 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 intervention, direction and guidance. Such action is not considered to be within the terms of the disciplinary procedure, however a formal

record will be kept and progress reviewed. Any employees aggrieved by this process shall have the right to implement the grievance procedure.

5 Suspension

- 5.1 Where it appears that an employee may be guilty of gross misconduct or for any other reason for which it is considered that an exclusion from the school premises is necessary, the Headteacher or the Governing Body has the power to suspend an employee on normal pay. The Governing Body may decide that it is content for the Chair to undertake this function on the Governing Body's behalf (see appendix 4). Any suspension of the Headteacher will be conducted by the Chair of Governors, supported and advised by a representative from the school's HR service. **In law it cannot be assumed that suspension will be viewed as a neutral act but it should be made clear in the documentation and orally to the employee that it is intended as a neutral act, which implies no guilt. The general rule is that suspension is a neutral act and it would be for an employee to prove otherwise.**

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, the 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 Local Authority's Children's Services HR Department 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 Advice & Guidance section).

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.

- 5.2 Suspension should only be considered where:

- the allegation is likely to be of gross misconduct (as defined in this policy),
- a child or children are at risk,
- 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,
- 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,
- 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.

The documentation issued to the employee to confirm the suspension should indicate which of the reasons above has been utilised to decide that suspension will be applied.

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 and Chairs of Governors should be aware of Derbyshire's Child Protection and other LA Procedures when dealing with allegations against members of staff. 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. Where a suspended employee suffers a period of sickness absence they should still submit sickness returns and would receive the appropriate sick pay. If an employee is subsequently dismissed he/she shall not be entitled to salary other than the sum (if any) due up to the date of termination of contract, 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.

- 5.3 Only the Governing Body may end a suspension and this power cannot be delegated to the Headteacher. The Governing Body may decide, in certain circumstances, that it is content for the Chair of Governors to undertake this function on behalf of the Governing Body. (see appendix 3) 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.

6. Management Investigation

Except in cases where the Headteacher is the subject of possible disciplinary action, the Headteacher or appropriate member of Senior Leadership Team, who is not a party to the allegation, a witness or subject to any other conflict of interest, 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 commission another individual to act as the Investigating Officer. This could be someone external to the school, like an HR Consultant from the Local Authority.

Where the Headteacher is the subject of an allegation of misconduct the Chair of Governors (or other nominated governor) will be the investigating officer, supported by a member of the school's HR service. 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 to give advice and make representations where necessary.

- b) The employee should be informed in writing that an allegation of misconduct which requires investigation has been received and that an investigatory officer has been designated (see Advice & Guidance section, paragraph 5). 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 will give the employee five working days notice of the date, time, and venue of the investigation interview.

Where the Headteacher delegates the role of investigating officer to another colleague they should clarify the extent of their responsibility. That is, whether they are to report back to the Headteacher, so that the Headteacher can make the decision on what action to take at the end of the investigation, or whether the investigating officer should write to the employee with their decision on the outcome of the investigation. Where the Headteacher has additional information relevant to the context of the employee they will wish to make a determination on the next steps to be taken on the basis of the findings of the management investigation.

In most cases there will be one of three 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. Where the Improvement Process has not already been applied and the nature of the allegation does not preclude this, an assessment that there is a potential case of misconduct and an informal or formal management intervention/direction and guidance, through the improvement process, should be undertaken.
- iii. A recommendation that there are sufficient grounds for a potential case for misconduct or gross misconduct to be made and that a disciplinary hearing should be held.

In most cases where iii applies, the investigating officer will have reported to the Headteacher who will consider whether there are sufficient grounds that may warrant disciplinary action, considering whether;

- a) the seriousness of the allegation merits it; or
- b) previous management intervention through the Improvement process has been ineffective;
- c) formal warning(s) have been ineffective; or
- d) there is a further unconnected event of unsatisfactory work or misconduct

The employee will be informed of the findings of the investigation and the decision on outcome in writing.

Where iii applies, the employee should be advised that a disciplinary hearing is going to be held, 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.

For cases of **misconduct**;

- If the Headteacher has not been involved in the investigation of the case, they may hear the case alone or invite other governors to join them on a panel depending on the Governing Body decision on levels of delegation (see Appendix 3).
- Where the Headteacher has been involved in the investigation or has received a report and reviewed the findings, a disciplinary panel should be convened to hear the case. The Headteacher should not be a member of the panel but may present the case, with or instead of, the Investigating Officer.

For cases of **gross misconduct**;

- The Investigating Officer will report to the Headteacher (where the Headteacher is not already the investigating officer) who will determine whether a case of gross misconduct will be referred to a hearing.
- Although, within regulations, the Headteacher could still hear the case, when joined by other governors, it is very strongly recommended that a disciplinary panel of governors is convened (unless it is agreed by all parties that the Headteacher hears the case)
- Where the allegation is against the Headteacher and an independent investigating officer has been commissioned, he/she will report to the Chair of Governors to determine if a case will be taken to a hearing.

7. Formal Disciplinary Hearing Procedure

Hearings 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 school working days' notice in writing. Consideration may be given to organising hearings during the school holidays where the employee is not restricted to term time working.
(See guidance on arranging formal meetings)

The employee will be informed of:

- The conduct which appears to justify disciplinary action.
- The right of the employee to be accompanied by a representative of a recognised Trade Union, Professional Association or friend to give advice and make representations where necessary.
- That they can call witnesses and present documents relevant to their defence (see Advice & Guidance, paragraph 6).

The Investigating Officer will supply copies of all documents to be relied upon at the Hearing to the Committee, the employee, and their named representative at least 5 working days prior to the date of the hearing.

Similarly the employee and or their named representative will supply copies of all documents to be relied upon at the Hearing to the Committee and the Investigating Officer 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. Management intervention and guidance, through the Improvement Process and lifting of suspension, where relevant.
- iii. In exceptional circumstances, following request from the employee, he/she may be granted an opportunity 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). Where an employee is to be dismissed as a result of misconduct relating to child welfare and safeguarding they must be reported to the DBS and NCTL, whether or not they resign before dismissal.

- iv. Issue of a warning.
- 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/Headteacher will be communicated to the employee and their representative as quickly as possible and in writing within 5 working days.

7.1 Sanction

Where the Headteacher/Disciplinary Committee determine that the shortcomings in the employee's conduct, established by the hearing, would most appropriately be addressed through the improvement process then the outcome of the case will be a referral to this procedure. Where the formal improvement process has already been applied for similar circumstances, it would rarely be appropriate for that procedure to be utilised again.

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

- A written warning
- A final written warning
- That the employee should be dismissed

*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's Services 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. Where a sanction is issued to the Headteacher, the Chair of Governors is responsible for ensuring that the matter is entered on the register appropriately and removed in line with the Disciplinary Committee's decision. During the absence of the Headteacher, the deputy/acting Headteacher is responsible for the maintenance of the register.

7.2 Expiry of Disciplinary Action and Expunging of Records

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, the employee and their representative will be notified to that effect.

Details of spent warnings shall remain in personal files. In line with the DfE guidance on 'safer recruitment' details of disciplinary warnings, spent or live, will be included in references where the misconduct affected adversely the safety and wellbeing of children.

If 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.

Substantiated allegations of harm to the safety and wellbeing of children must be kept in a confidential personnel file and a copy provided to the individual. The record should be retained until the individual has reached normal retirement

age or for a period 10 years from the date of the allegation, if that is longer. The record will comprise a comprehensive summary of the allegation, details of how the allegation was followed up and resolved, including a note of any action taken and decisions reached. The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information about an allegation that did not result in criminal conviction and will help to prevent unnecessary re-investigation, if an allegation re-surfaces.

8. 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. Normally the grounds for appeal will be one or more of: procedural concerns, the substance and basis of the decision, the severity of the sanction. The employee or their named representative must set out clearly the grounds of the appeal within 10 school working days from the receipt of the written confirmation 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 (see Advice & Guidance, paragraph 7).

- 8.1 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.
- 8.2 If the appeal relates to a dismissal where the Local Authority is the employer the Strategic Director for Children's Services Department or his/her representative shall be entitled to attend the meeting for the purpose of offering advice to the Governing Body.
- 8.3 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.
- 8.4 An appeal decision of the Governing Body will be final.
- 8.5 Appendix 2a and 2b, set out the procedure to be followed by the Disciplinary Committee and the Appeals Committee of the Governing Body respectively.

9. Dismissal

In respect of an employee working solely at the school and where the Authority is the employer, the Authority is under a duty to issue a notice of dismissal within 14 days of the Governing Body notifying the Authority of the 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 employer is responsible for providing a written statement of reasons for the dismissal as required by law. It follows that where the Local Authority is the employer the reasons for the dismissal must be clearly set out in the Governing Body's notification to the Authority.

10. 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 on Disciplinary and Grievance Procedures" 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, or serious misuse of, 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 employee 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 and other offences of dishonesty.

- ix. Conviction for a criminal offence unconnected with the school but which removes an employee's acceptability to remain in employment, e.g. sexual abuse of a child, drugs offence etc.
- x. Serious breaches of health and safety rules including deliberate damage to, or misappropriation of, safety equipment.
- xi. Serious negligence, which causes or might cause unacceptable loss, damage or injury.
- xii. Holding unauthorised paid employment during paid school time.
- xiii. Failure to meet the registration requirements of a statutory regulatory body.
- xiv. Serious incapacity through alcohol or being under the influence of illegal drugs, except where the case would be more appropriately dealt with under separate procedures.
- xv. Serious acts of insubordination.
- xvi. Bullying, intimidation, victimisation or other forms of harassment.
- xvii. Downloading or distributing pornographic, obscene, offensive or illegal material.
- xviii. Serious maladministration of statutory tests and examinations.
- xix. Serious misuse of the School's name.
- xx. Failure to observe relevant Local Authority Safeguarding policies and procedures plus the Financial Regulations.

(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.
- 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 Disclosure & Barring Service– failure to notify line management of any activity likely to result in subsequent criminal investigation, conviction or police caution being served. For those employees subject to the provisions of the Disqualification under the Childcare Act regulations – failure to report a change in status potentially affecting their ability to work with the relevant age groups of children.
- 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. Failure to observe the policies of the school and relevant Local Authority Safeguarding policies and procedures plus the Financial Regulations, school's 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 lists of examples of breaches of conduct are not comprehensive or exhaustive but should provide an indication of the standards required. The extent and scale of the allegations will be considered when deciding whether or not they are considered to be misconduct or gross misconduct.

Appendix 2a

Procedure of Disciplinary Committee

1. The Employee shall be given at least 10 school 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 (see Appendix 3).
2. If the case is to be heard by a Disciplinary Committee, which does not include the Headteacher and the Headteacher is not presenting the case, it may be appropriate for the Headteacher to attend as a witness to provide information to the panel on school procedures etc. but they would withdraw once their contribution had been received and would not attend the panel's deliberations at the conclusion of the case.
3. 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.
4. The Investigating Officer, Headteacher, nominated Governor to put the case in the presence of the employee and to call witnesses.
5. The employee, or representative, to have the opportunity to ask questions of the Investigating Officer, Headteacher, nominated Governor on the evidence given by him/her and any witness whom he/she may call.
6. The members of the Committee to have the opportunity to ask questions of the Investigating Officer, Headteacher, nominated Governor and witnesses.
7. The employee to put his/her case in the presence of the Investigating Officer, Headteacher nominated Governor and to call such witnesses as he/she wishes.
8. The Investigating Officer, Headteacher, nominated Governor to have the opportunity to ask questions of the employee and his/her witnesses.
9. The Committee to have the opportunity to ask questions of the employee and his/her witnesses.
10. All witnesses will withdraw at this point.
11. The Investigating Officer, Headteacher, nominated Governor and then the employee to have the opportunity to sum up their case if they so wish.

12. The Investigating Officer, Headteacher, nominated Governor and the employee to withdraw.
13. The Committee to deliberate, only recalling the Investigating Officer, Headteacher, nominated Governor 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.
14. The Committee will announce its decision to the employee personally and to his/her representative, Headteacher and/or the nominated governor. This will be confirmed in writing within five working days.

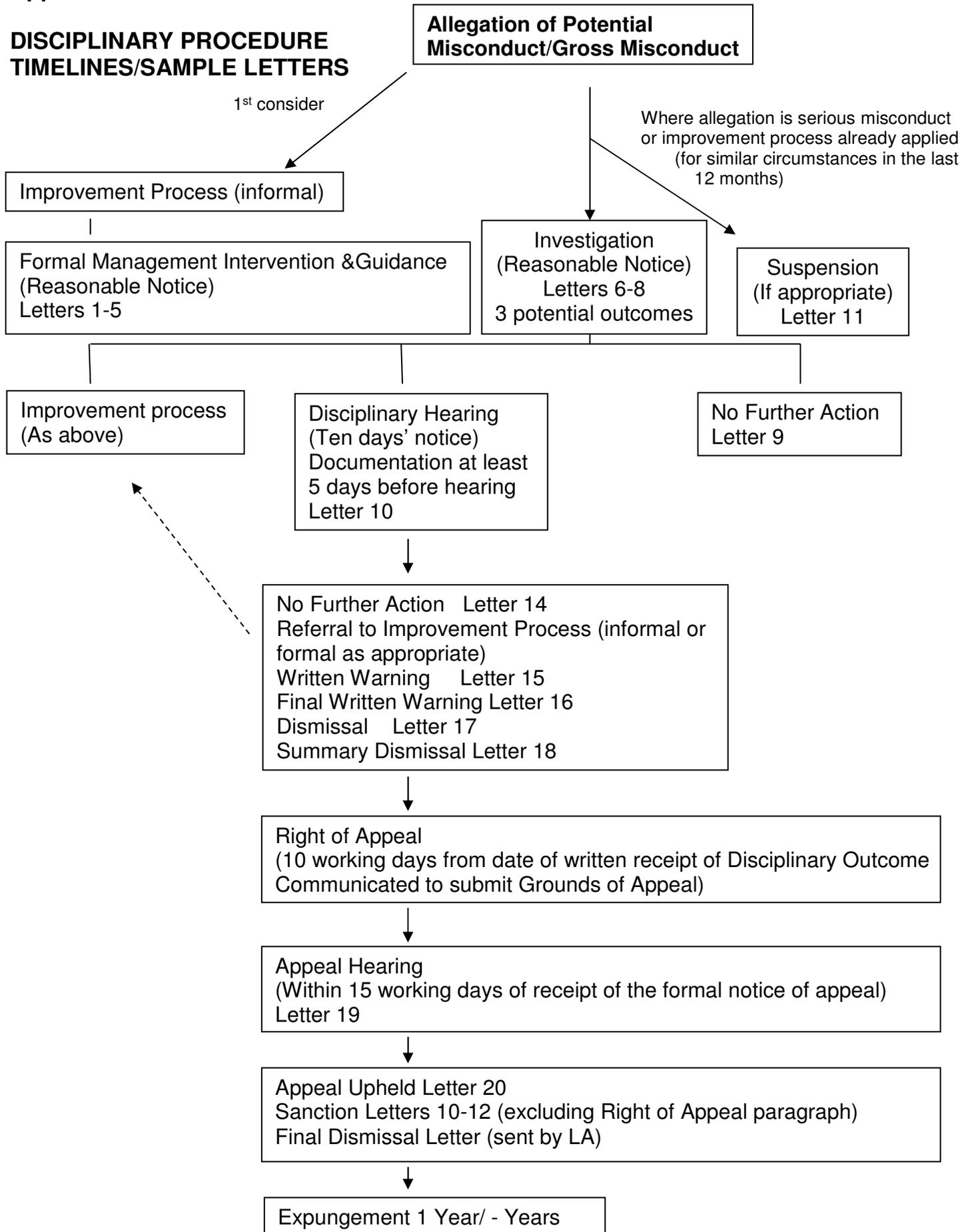
Appendix 2b

Procedure of Appeals Body

1. The Employee shall be given at least ten school working days' to submit the grounds for an appeal in writing. The time begins on the day of receipt of written confirmation of the decision of the Headteacher or Disciplinary Committee. (The date of the deadline to submit an appeal should be included in the letter.)
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/representative to put his/her case for appealing the outcome of the Disciplinary Hearing in the presence of the Investigating Officer, Headteacher, nominated Governor and to call such witnesses as he/she wishes.
5. The Investigating Officer, Headteacher, nominated Governor 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 to put his/her case in the presence of the employee and his/her witnesses.
8. The employee/representative to have the opportunity to ask questions of the Investigating Officer, Headteacher, nominated Governor 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/representative to have the opportunity to sum up his/her case if they so wish.
12. The Investigating Officer, Headteacher, nominated Governor to have the opportunity to sum up their case if they so wish.

Appendix 2c

**DISCIPLINARY PROCEDURE
TIMELINES/SAMPLE LETTERS**



DERBYSHIRE LA

Disciplinary Procedure

ADVICE & GUIDANCE

SOUTH DARLEY CE PRIMARY SCHOOL

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6.	Allegation of Misconduct/Gross Misconduct – Request to Attend Investigatory Meeting	
7.	Letter inviting witness to attend investigatory interview	
8.	Letter to confirm notes of investigatory interview	
9.	Letter Informing Employee That No Action Is To Be Taken Following Allegation of Misconduct	
10.	Letter Informing Employee of Decision to Implement Formal Disciplinary Procedure Following Investigation and Attend Hearing	
11.	Letter of Suspension	
12.	Initial Review of Suspension	
13.	Subsequent Review of Suspension	
14.	Letter to lift suspension/alternative to suspension – return to duty	
15.	Letter Informing Employee That No Action Is To Be Taken Following Disciplinary Hearing	

16. Written Warning
17. Final Written Warning
18. Dismissal Letter (Not Summary Dismissal)
19. Summary Dismissal
20. Notification of Appeal Hearing Date,
to be considered by the Governing Body
21. Notification of Appeal Hearing Decision

Monitoring and Review

ADVICE AND GUIDANCE

Disciplinary Procedures

1. Purpose

The first part of this document sets out the Disciplinary Procedure which has been adopted by the Governing Body of South Darley CE Primary School 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 employee 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 Local Authority's Children's Services HR Department 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 and Person Profiles 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 and Person Profiles are well defined, structured, and drawn up for every post within the School. These should, therefore, be signed by the post holder, indicating acceptance of the requirements of the job. Whether signed by the staff member or not, they remain the descriptors through which expectations are clarified and defined.

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 employment 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 Employment 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 understands 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 on page 11 and on alternatives to dismissal detailed on page 7/8 in the Model Disciplinary Procedure Section 6). Guidance and advice will be provided by the Local Authority's Children's Services HR Department.

3. Improvement Process

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 Appraisal, Competence, or Child Protection Procedures.

Informal Management Intervention and Guidance

In line with Principle 3.4. it is anticipated that informal action 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 Intervention and Guidance 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. There is no set time for the note to remain on file.

(It is good practice to adopt a schedule for the review of personal files with staff in order to identify any outdated and irrelevant items.)

Formal Management Intervention and Guidance

Where the above has failed to achieve a desired improvement in an employee's job performance or conduct, or the matter requires a formal response, Formal Management Intervention and Guidance should be undertaken. In cases where the employee's conduct is giving serious concern, the Headteacher may arrange for the conduct of a management investigation to determine whether a disciplinary procedure needs to be invoked or that Formal Management Intervention & Guidance is appropriate.

The objective of this process 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 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 Management Direction & Guidance Process does not constitute part of the Formal Disciplinary Procedure but it is a reasonable and lawful instruction for an employee to attend an interview and it is not optional.

The 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. Formal Management Intervention & Guidance may often be more satisfactory for resolving problems than a disciplinary interview, especially for staff that have recently joined the school, or have otherwise a record of long and satisfactory service at the school. If however during the discussion, 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 through 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

An employee should not be suspended automatically and the Headteacher or Chair of Governors should always seek appropriate advice before doing so.

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

There must be a good reason for the suspension of a member of staff which may be in one or more the following circumstances:

- a) Safeguarding issues such that a child or children are at risk.
- b) Where an allegation of gross misconduct has been made against the member of staff and dismissal is possible.
- c) 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 (e.g. potential removal/destruction/contamination of evidence; influencing witnesses).
- d) 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.
- e) 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.

No extra travel costs should be incurred by the employee as a result of suspension.

In relation to circumstances a) and c) above suspension should only be considered in a case where there is cause to suspect a child or other children at the school is/are at risk of harm or the case is so serious that it might be grounds for dismissal.

The employee should be given the reason(s), which will normally one or more of those listed above, which have determined that they should be suspended. The reason(s) should be included in the written confirmation of suspension.

The Headteacher/Chair should also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In cases where there is an allegation of harm to children, it may be assessed that the investigation can be clarified or resolved quickly, without the need for suspension. If the LADO, police and children's social care services have no objections to the member of staff continuing to work during the investigation, the Headteacher/Chair should be as inventive as possible to avoid suspension. Based on an assessment of risk, the following alternatives should be considered before suspending the individual.

- Redeployment within the school, so that the individual does not have direct contact with the child or children concerned;
- Providing a colleague to be present when the individual has contact with children;
- Redeploying to alternative work in the school so the individual does not have unsupervised access to children;
- Moving the child or children where they will not come into contact with the

staff member (The principle is that the child should not be negatively affected because an allegation has been made but, where moving a child is considered, it must be made clear that this is not a punishment and agreement reached with the child's parents. Advice should also be taken from HR provider)

- Temporarily redeploying the member of staff to another role in a different location, maybe an alternative school in the LA or academy trust.

It is recognised that the feasibility of some of these options may be restricted by the school's context and size. These alternatives may provide time for a more informed decision to be taken regarding the suspension, depending on the nature of the allegation. To suspend a member of staff following an allegation that is clearly malicious or vexatious is unnecessary and may be damaging. The Headteacher/Chair should consider the potential permanent professional reputational damage to employees that can result from suspension. The Headteacher should seek advice from the LA and consider the weight and balance of the circumstances and evidence available before making any decision.

Headteachers should be aware of Derbyshire's Child Protection and other LA Procedures when dealing with allegations against members of staff and considering whether suspension is an appropriate and proportionate response to the allegation.

Whether the decision is to suspend or not to suspend the following should be clearly recorded and confirmed in writing to the employee, Chair of Governors, and where it is the employer, the Local Authority, as soon as practicable after the decision:

- The decision.
- The reason(s) for the decision.
- If the decision was to suspend, what alternatives to suspension were considered and why they were not appropriate.

A Draft Specimen Letter are included as Appendix 8 Letter 11

4.3 Procedure for Suspension

Any decision to suspend a member of staff can only be made by the Headteacher or Chair of Governors and where the Local Authority is the employer following consultation with the Local Authority's Human Resources Advisory Service for Schools.

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 Local Authority's Human Resources advisory

service does not absolve the Headteacher from the responsibility to make a decision, nor 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 and notify the employee of a suspension, to ensure they are aware of the situation. 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 it cannot be assumed that suspension will be viewed as a 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. If the employee is not provided with the exact allegation they should be given the reason, e.g. at another agency's request.
- 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/investigation will normally be conducted by the Police beforehand.
- 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 companion or fellow worker.
- The member of staff should be offered a Contact Officer, who is a senior staff member but outside of the case, preferably one who is acceptable and agreed between the Headteacher and employee. The member of staff can raise any questions through this officer and receive information on school developments during their absence. In circumstances where there is no senior staff member who can take on the role, a LA officer may be nominated. The member of staff should also be given information on the employee counselling service and asked if they need any other support.

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. This means that, where relevant, a suspended employee should still submit sickness returns and would, when suffering sickness absence, receive the appropriate sick pay.
- They will be required to be contactable during their suspension and also be informed that, in order not to prejudice the objectivity of the investigation, they will not be permitted to attend the workplace without prior invitation. It is recognised that there may be particular reasons why the employee needs to contact certain other staff and it is acceptable to maintain existing patterns of social interaction but it is important to ensure that no discussion in relation to the reason for the suspension takes place. While consideration should be given to the relationships staff may have with their colleagues it must be emphasised that the investigation may be compromised if the employee discusses the circumstances with colleagues. They should be advised to maintain discretion and if in any doubt to seek advice.
- 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 and that they will be kept informed of the progress of the investigation.

Following suspension, an initial review of the case should take place as soon as possible, normally within five school working days or longer by mutual consent, with the aim of minimising the length of the suspension.

Following the initial review, ongoing reviews should take place at least monthly - unless it is mutually agreed not to (e.g. ongoing investigation by an outside agency) in which case an appropriate review date should be agreed.

Wherever possible written confirmation should be prepared and handed to the individual at, or provided as soon as possible after, the meeting. It should include the allegation, unless it has been decided, in conjunction with outside agencies, that this may prejudice the investigation.

- The Headteacher (Chair of Governors and LA officer, for instances where the Headteacher is the subject of the allegation) should agree with the member of staff what their colleagues and the wider school community will be told about 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.

- Where the employee is also a parent of a child at the school it should be clarified that attendance and other contact in the role of parent may be able to continue as usual. However this should be discussed in conjunction with considerations outlined above concerning what is being communicated to stakeholders in the school community and the potential for concerns to be raised about potential influence on the investigation/witnesses.
- Once the investigation is concluded and where the employee is informed that the case will be referred to a hearing, they may approach relevant members of the school community who they wish to call as witnesses. This is best undertaken by their representative. No pupils should be approached without prior discussion with the Headteacher and agreement as to necessity. Parents' would also first need to be approached for their agreement.
- 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

The following principles will apply to all Reviews of Suspension:

- Management should undertake an initial review of the suspension and if the suspension continues there should be further regular, usually monthly, reviews.
- Whilst suspension reviews may well take place as a meeting with the employee and or their representative this may not always be appropriate, for example where circumstances have not changed.
- Management will always confirm, with reasons for, the outcome in writing.
- The employee and their representative will have the option to request a Review of Suspension meeting and or provide written representation in advance of and to inform the review, or in response to a review outcome.

An **Initial Review of Suspension meeting** should take place as soon as possible, normally within five school working days or longer by mutual consent, with the aim of minimising the length of the suspension.

This meeting will provide the employee and or their representative to ask any questions they have about and or raise any concerns or challenges they may have to the process.

Subsequent ongoing **Reviews of Suspension** should take place at least monthly, unless it is mutually agreed not to, for example there is an ongoing investigation by an outside agency, or no change in circumstances, in which case an appropriate review date should be agreed.

Regardless of the circumstances the employee and or their representative can request a Review of Suspension meeting and or provide written representation in advance of and to inform the next review, or in response to the review outcome which will be confirmed to the employee in writing.

The continuation of suspension should be considered by the Headteacher or Chair of Governors, who will normally be advised by the schools HR Service provider the employee informed of the outcome accordingly.

The purpose of a review is to ensure that the suspension is as short as possible, once the school has sole responsibility to deal with the case. It is unfair to a member of staff to delay the investigation and resolution of any issues, particularly disciplinary, arising from it. It is expected that the situation will be addressed as a matter of urgency and priority, owing to the impact of suspension on the individual concerned and the school.

Where there is a delay in the investigation of the allegation and resolution of the case, this must be justified with the reasons (e.g. where an outside agency takes precedence and the school is not cleared to proceed). This should be clarified to the employee.

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

Specimen letters for the initial and subsequent suspension reviews are included as Appendix 8 Letters 12 and 13

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 and support 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.

The Governing Body may decide, in certain circumstances, that it is content for the Chair of Governors to undertake this function on behalf of the Governing Body (see appendix 3).

It is recommended that, at the first meeting of the academic year, the Governing Body formally empower the Chair to fulfil this function.

It is not a hearing of the case. Only sufficient information will be given to

understand why the Headteacher is making the recommendation and to reach 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

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.

Please refer to Appendix 3 to clarify the roles of Investigating Officer, Headteacher and Governors, depending on the school's adoption of the 2009 Staffing Regulations.

If, following management intervention and guidance, 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 necessary 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 Consultant 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 Local Authority's Children's Services HR Department, or other 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 an investigation interview, informing them of the nature of the events being investigated, including the date and time of any specific incident, and 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 Investigating Officer 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. In this respect five school working days notice is reasonable or less by mutual agreement. The employee should be informed in writing that an allegation of misconduct which requires investigation has been received and that an 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 or distraction and there should be a room available for the employee and their representative to confer in private. Another appropriate member of staff should also be 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. 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 a Local Authority HR Consultant can be invited to assist and support. 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. These notes are not intended to be a verbatim record, but a representation of the conversation that took place. The purpose of these notes is to aid the Investigating Officer in making an informed decision in respect of the allegation.

At the start of the interview the employee should be informed that:

- They will receive a copy of the notes to confirm they are accurate or to make comment on.
- If they agree the notes are accurate, they should sign them and return a signed copy to the Investigating Officer.
- The investigating Officer will accept any minor amendments provided they do not change the substance of the employee's answers.
- If they have any comments or reasons why they believe the notes are not accurate they should confirm them in writing to the Investigating Officer and they will be included with the Investigating Officer's notes in the record of the investigation.
- The notes of the meeting, including any comments and or reasons provided by

the employee, may be used in evidence at any disciplinary hearing arising from this investigation.

- They will have five working days to sign and or comment on and return the notes of the meeting.

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 sufficient grounds for that belief?'
- h) Having conferred with the Headteacher/Chair as agreed, 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 three outcomes:
 1. Complete exoneration from the allegations made. In this case a letter should be sent to the employee thanking them for their co-operation throughout the Management Investigation process.
 2. Where the Improvement Process has not already been applied in similar circumstances and the nature of the allegation does not preclude this, an assessment that there is a potential case of misconduct and an informal or formal management intervention/direction and guidance, through the improvement process, should be undertaken.
 3. There are sufficient grounds to suggest that there is a more serious case or a further incidence of misconduct to answer.

In which case the employee should be advised that a disciplinary hearing is going to be held, 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.

The letter should indicate whether the hearing will consider a case of misconduct or gross misconduct (or both) and the appropriate adaptations made to the model letter provided with the policy.

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 implementing the Improvement Process. 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 and placed on their personal file.

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 Local Authority's Human Resources Service 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.

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.

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 during the investigation.

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 is not relevant i.e. does not support or add to the management case 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.

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

5.5 Audit Services' Investigations

The over-riding consideration of all investigations should be to investigate thoroughly and to address the issues as speedily as possible.

Recognising the need for Audit investigation and consideration of potential disciplinary action to be separate in order to maintain the independence of both actions and taking into account the provisions of the Local Authority's Scheme for the Local Management of Schools as well as its and the School's Financial Regulations, the following process has been agreed:

- All employees are required to report matters relating to fraud, misappropriation or loss promptly to the Assistant Director of Finance (Audit) & RIPA Monitoring Officer. In practice, for schools this may mean the matter is reported to the Headteacher and or Chair of Governors in the first instance in which case they are required to report it to the Assistant Director of Finance (Audit) & RIPA Monitoring Officer.

- On receipt of such notifications, and prior to the start of the investigative process, the Assistant Director of Finance (Audit) & RIPA Monitoring Officer will discuss with the relevant Strategic Director, and where appropriate the Headteacher and or Chair of Governors, whether any joint investigation is required, and, if so, how it should progress.
- Where there is any disagreement between Audit Services and the Strategic Director, and or the Headteacher and or the Chair of Governors, and in circumstances where the Local Authority is the employer, the Chief Executive or Deputy Chief Executive will be asked to determine the appropriate investigative process to follow.

The investigation will be one of the following:

- An Audit investigation as detailed above with any subsequent disciplinary action being taken on the conclusion of the audit investigation with minimal or no further duplication during the management investigation which would focus on the content and findings of the Audit Investigation and Report.
- Joint investigations by Audit/School management where the matter relates to both financial and other misconduct and where a two-strand approach may be beneficial. In these cases, in order to ensure effective liaison with the employee or employees affected, a lead officer will be agreed between the two Investigating Officers and arrangements will be made for the joint investigation to reflect the individual requirements of the case. Normally, but not always, it will be appropriate for the lead officer to be the School's nominated manager.
- An investigation under the School's Disciplinary Procedure. This will normally only be after it has been agreed by the Assistant Director of Finance (Audit) & RIPA Monitoring Officer, Strategic Director, and where appropriate the Headteacher and or Chair of Governors, that any potential fraud or financial loss to the School and or Council, e.g. through time recording or misuse of the internet and e-mail policy, is not considered material/significant.
- An investigation by the School is **always** subject to the School's designated Investigating Officer **must** inform Audit Services immediately about any new information which comes to light during the course of the investigation which changes or potentially changes the nature and or extent of the financial irregularity and or financial loss, and therefore the potential for fraud. Audit Services will assist to establish the extent of any loss and provide specialist advice or assistance in such cases where necessary.

In respect of the above, the following will apply:

- Audit investigations will be conducted in accordance with professional best practice and the guidance in the School's Disciplinary Procedure where this is likely to lead to a disciplinary hearing.
- Recognising the need for confidentiality and the possible implications of any of the School's management involvement in the alleged act under investigation there will may be a need for regular communication about the progress of the investigation between the Assistant Director of Finance (Audit) & RIPA Monitoring Officer and the Headteacher, and or Chair of Governors, and or the Schools nominated Investigating Officer.
- All relevant documentation, interview notes or witness statements, and evidence, obtained during the course of an Audit investigation will be made available, if required, to the School's nominated Investigating Officer for the purposes of any subsequent disciplinary investigation and hearing.

6. The Formal Disciplinary Hearing

The purpose of the disciplinary procedure is primarily to help and encourage employees address any shortfalls in conduct rather than just as a way of imposing punishment. The procedure provides a fair and consistent mechanism through which employees' conduct may be corrected to achieve the standards required and, when appropriate, sanctions applied, up to and including dismissal.

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 its members 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. Therefore the provision of separate 'breakout' rooms, for the employee with his/her representative and the presenting officer with his/her HR adviser, are recommended. 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 or another substantial reason for not being able to attend. 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 and therefore the request and reasons given for a deferment as well as the Headteacher's or Disciplinary Committee's response and reasons should not only be recorded but acknowledged and the response communicated to the employee and their nominated representative.

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 is fulfilled.

It should be noted however that whilst a request for deferment should not unreasonably be refused repeated requests are not justification for the progress and completion of disciplinary process to be postponed indefinitely. The Headteacher or Disciplinary Committee will need to consider the extent to which the disciplinary process is being (unreasonably) frustrated and the extent of the impact further delay will have on the effective and efficient running of the school, the employee who is the subject of the allegation(s), and on other employees affected.

In circumstances where an employee, is not able to attend in person their right to representation remains unchanged. The employee should be offered the opportunity to be represented at and or submit a written statement to any interview or hearing they are not able to attend but which it has been decided will go ahead in their, and or their representative's, absence.

It may be necessary at a later stage to be able to evidence that consideration was given to deferring or proceeding with a hearing in the absence of the employee and or their representative. If the Headteacher or Disciplinary Committee decides to proceed with a hearing in the absence of the employee and or their representative the case for and reasons for the decision to do so should be recorded and communicated to the employee and their representative along with the outcome of the hearing.

(Please see the separate advice on the arrangement of meetings (link is on the LID)

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 by a companion where the disciplinary meeting could result in:

- A formal warning being issued; or
- some other disciplinary action being taken; or
- Confirmation of a warning or some other disciplinary action (appeal hearings).

The statutory right is to be accompanied by a fellow worker, a trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker. Employers must agree to a worker's request to be accompanied by any companion from one of these categories. Workers may also alter their choice of companion if they wish. As a matter of good practice, in making their choice workers should bear in mind the practicalities of the arrangements. For instance, a worker may choose to be accompanied by a companion who is suitable, willing and available on site rather than someone from a geographically remote location.

To exercise the statutory right to be accompanied workers must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. A request to be accompanied does not have to be in writing or within a certain timeframe. However, a worker should provide enough time for the employer to deal with the companion's attendance at the meeting. Workers should also consider how they make their request so that it is clearly understood, for instance by letting the employer know in advance the name of the companion

where possible and whether they are a fellow worker or trade union official or representative.

If a worker's chosen companion will not be available at the time proposed for the hearing by the employer, the employer must postpone the hearing to a time proposed by the worker provided that the alternative time is both reasonable and not more than five working days after the date originally proposed.

The companion should be allowed to address the hearing to put and sum up the worker's case, respond on behalf of the worker to any views expressed at the meeting and confer with the worker during the hearing. The companion does not, however, have the right to answer questions on the worker's behalf, address the hearing if the worker does not wish it or prevent the employer from explaining their case.

6.3 Sanctions

The general expectation is that, unless it is inappropriate to do so, serious consideration will be given to utilising the informal or formal improvement process where the staff member has no record of previous conduct issues on their personal file. However, it is recognised that for serious misconduct or repeated misconduct, that is proven (on the balance of probabilities), the sanctions below may be given.

Written Warning

For **serious** misconduct, or where a further misconduct has occurred (either of a similar or of a different nature), following formal management intervention and guidance through the improvement process, a written warning may be issued. 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 **very** serious act of professional misconduct/gross 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 7 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.

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 from the disciplinary record as part of the review.

Clarification should also be provided of who will review the warning, on what grounds, and when. 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 nature of the misconduct.

Details of spent warnings will be kept on personal files. They will not normally be taken into account if there is a further instance of misconduct, in determining the sanction, but an expired warning for a similar type of misconduct, or pattern of misconduct, should be considered when deciding how long any subsequent warning is 'live'.

A decision to dismiss should not be made on the basis of an expired warning but the fact that there is an expired warning may explain why the employer does not substitute a lesser sanction. A spent warning will not increase the severity of a sanction but may provide a reason not to reduce a sanction in response to mitigation.

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 DfE guidance on 'Safer Recruitment', but shall be disregarded for the purposes of disciplinary proceedings, except in exceptional circumstances. The employee will be notified if exceptional circumstances apply.

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. (A suggested appeal form is attached as Appendix 6).

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 re-hearing of all the relevant evidence in the case would be needed for the Appeal Committee members 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.

The venue for the Appeal Hearing should have sufficient rooms available for the respective parties to be able to confer in private, and be free from interruption or distraction. Therefore the provision of separate 'breakout' rooms, for the employee with his/her representative and the presenting officer with his/her HR adviser, are recommended. Sufficient time for the appeal to be fully considered should be allowed, anything from a few hours, to a few days depending upon the complexity of the appeal.

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 Local Authority's Children's Services HR Department, as appropriate.

9. Grievance

Should a grievance be raised by the employee during the course of the disciplinary process, normally, where the issues relate to the substance/context of the disciplinary matter, it may be appropriate to deal with both issues concurrently.

Where an employee raises a grievance relating to the procedure during or before a meeting it may be appropriate to consider stopping the hearing and suspending the disciplinary procedure in order to deal with the grievance.

Examples of when the procedure is likely to be suspended include:

- an alleged conflict of interest that the person(s) hearing the case or otherwise involved in the case may have,
- Alleged Bias in the conduct of the disciplinary hearing,
- There is possible discrimination,
- It is alleged that information has been withheld in the material presented to support the case, or that wholly irrelevant material has been included,
- Other challenge to the way the procedure has been conducted.

Advice should always be sought from the Local Authority's Children's Services HR Department.

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

If the grievance is raised before the disciplinary hearing takes place, a separate investigation of the issues can be instigated, without waiting for the disciplinary case to be completed.

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 3

DELEGATION OF SCHOOL STAFFING REGULATIONS

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.

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 makes 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 the Local Authority's Children's Services HR Department 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.

Disciplinary Procedure - Roles and Responsibilities (overview)

Allegation against employee

Investigating Officer

The Investigating Officer will be responsible for establishing the facts and circumstances relating to alleged misconduct, promptly and with minimal delay. Having carried out a fair and thorough investigation, the Investigating Officer will generally make a considered decision based upon the balance of probabilities.

Further guidance is in the Disciplinary procedure on pages 31-38

Senior Staff Member - nominated by Headteacher	Headteacher	A HR Consultant ^ or other independently commissioned Officer
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Disciplinary Officer/Committee

The Disciplinary Officer/Committee will consider the facts presented by the Investigating Officer, the employee's response, and the testimony of any witnesses at a hearing. Having heard the case a decision, on the balance of probability, will be made and communicated to the employee.

Further guidance is in the Disciplinary procedure on pages 38-42

i) Headteacher* or ii) Governing Body Disciplinary Committee	Governing Body Disciplinary Committee	Headteacher* or Governing Body Disciplinary Committee
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Appeals Committee

The Appeals Committee (which does not include the Disciplinary Officer/Committee or any other Governors previously involved) will hear any appeal presented by the employee, along with responses from the Disciplinary Officer/Chair of the Disciplinary Committee, the Investigating Officer and the testimony of any witnesses. The Appeals Committee may uphold the appeal, confirm the original decision, or impose a lesser penalty (but not a more severe one). The decision of the Appeals Committee will be final.

Further guidance is in the Disciplinary procedure on pages 42-43

Governing Body: i) Disciplinary Committee or ii) Appeals Committee	Governing Body Appeals Committee	Governing Body: i) Disciplinary Committee or ii) Appeals Committee
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Allegation against Headteacher

Governor - nominated by Chair	A HR Consultant ^ or other independently commissioned Officer
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Governing Body Disciplinary Committee	Governing Body Disciplinary Committee
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Governing Body Appeals Committee	Governing Body Appeals Committee
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* Depending on the level of delegation of disciplinary decisions determined by the Governing Body.

^ Cost incurred.

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.

Summary of Section of School Staffing Regulations in Relation to Suspension of Staff

The Governing Body or Headteacher may suspend staff:

- when a member of staff has been suspended by the Governing Body or Headteacher each will inform the other, as the case may be.
- ending a suspension can only be done by the Governing Body. They cannot delegate this function to the Headteacher.
- the Governing Body may decide, in certain circumstances, that it is content for the Chair to undertake these functions on behalf of the Governing Body.
- when ending a suspension a Governing Body must inform the Headteacher and, in Community, Voluntary Controlled, Community Special and Maintained Nursery Schools, must inform the Local Authority.

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 from the senior leaders in the school but outside of investigation of the case. In circumstances where this is not possible a member of staff from the Local Authority's Human Resources Team may be requested. In particular, where a Headteacher is suspended the contact officer is likely to be a LA officer.
- 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 should be acceptable to the member of staff and if not, for whatever reasons, every effort will be made to identify an alternative Contact Officer.

- 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.
- Provide or secure appropriate provision of, and access to, relevant information (including, when requested, material required to support their case) and updates from their workplace.
- 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.

Appendix 5

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.

Appendix 6

REGISTER OF AN APPEAL

Employee Name: _____

Date of Disciplinary Hearing: _____

Date of Receipt of written confirmation of outcome of Hearing: _____

Please state which of the following are the grounds for your appeal.

1. Appeal on procedural grounds. Challenge concerning the implementation of the disciplinary policy and procedure. Please provide the nature of your challenge.

2. Appeal related to the level of sanction issued, but not the substance of the case. Please provide the nature of your challenge.

3. Appeal on the grounds that the findings of the Disciplinary Panel were not sound and reasonable, on the basis of the evidence provided. Please provide any specific challenge to the panel's conclusion, where appropriate.

An appeal must be lodged with the Headteacher within 10 working days of receipt of the written confirmation of the Disciplinary Panel's decision.

Signature of Employee: _____

Date: _____

For school Use:

Date Received:

Appendix 7

Specimen Letters

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Specimen Letter 1

Attendance at a Formal Management Intervention Interview

Date

Personal and Confidential

Name and Address

Dear

Formal Management Intervention and Guidance - Interview

I write to request your attendance at a Formal Intervention and Guidance 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 Management Intervention & Guidance Interview – Action Plan on Review of Progress

Date

Personal and Confidential

Name and Address

Dear

Formal Management Intervention and Guidance - Interview

I write to confirm the outcome of our formal 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 Management Intervention & Guidance –
Review/Extension of Review Period**

Date

Personal and Confidential

Name and Address

Dear

Formal Management Intervention & Guidance - Review

I write to confirm the outcome of our formal 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 Management Intervention & Guidance –
Satisfactory Progress/No Further Action**

Date

Personal and Confidential

Name and Address

Dear

Formal Management Intervention & Guidance - Review

I write to confirm the outcome of our formal Management Intervention & Guidance review meeting 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 Management Intervention & Guidance Review –
No Significant Progress**

Date

Personal and Confidential

Name and Address

Dear

Formal Management Intervention & Guidance - Review

I write to confirm the outcome of our formal 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 the help and assistance provided.

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.

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

Specimen Letters 6

**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 in line with (school name) disciplinary procedure at (place) on (day, date) at (time) when (X, Y) will be present to discuss this issue with you.

We reserve the right to change or add to this/these allegation(s) as appropriate in light of the investigation. We will keep you fully informed should this be the case.

Whilst this investigatory meeting does not constitute part of a formal Disciplinary Hearing, 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 Hearing 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.

Please do not discuss this matter with any colleagues who may be called upon as witnesses.

Cont./

I shall be grateful if you will please contact [NAME] 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*

Letter inviting witness to attend investigatory interview

Date

Personal and Confidential

Name and Address

Dear

Invite to Disciplinary Investigation Meeting

I write further to our conversation on (date) to formally request your attendance at an investigatory interview in line with (school name) disciplinary procedure.

I must emphasise that you are not subject to any disciplinary action, but are required to attend as a witness to provide and information you may have that might assist in this investigation.

As discussed, I have made arrangements for the interview to take place on (date) at (time) at (location/school). The purpose of the meeting is to gather information pertaining to an alleged incident of misconduct that is understood to have taken place on (date, time). I will conduct the meeting, with (name), HR Consultant in support. You have the right to be accompanied by a union representative or friend / colleague unrelated to this issue, at this meeting.

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

Please be advised that this issue must remain confidential and I would therefore request that you do not discuss information relating to this case with anyone other than your nominated representative.

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

(Name)
Investigating Officer

Specimen Letters 8

Letter to confirm notes of investigatory interview

Date

Personal and Confidential

Name and Address

Dear

Investigatory Interview - Notes

Thank you for attending the recent investigatory interview on (date).

Please find enclosed two copies of the notes taken at the interview. These notes are not intended to be a verbatim record, but a representation of the conversation that took place.

I would be grateful if you could check the notes, making any amendments you feel are necessary, before signing and returning the notes to (contact details) by (date – at least 5 working days).

If you do not return a signed copy of the notes by (date), it will be assumed that the notes are an accurate record of the interview.

Please retain the second copy of the notes for your information.

The investigating Officer will accept any minor amendments provided they do not change the substance of your answers to the questions you were asked.

If you have any comments or reasons why you believe the notes are not accurate you should confirm them in writing to the Investigating Officer and they will be included with the Investigating Officer's notes in the record of the investigation.

The notes of the meeting, including any comments and or reasons provided by the employee, may be used in evidence at any disciplinary hearing arising from this investigation.

Please be advised that this issue must remain confidential and I would therefore request that you do not discuss information relation to this case with anyone.

Cont'd/

Thank you for your cooperation with this process.

Yours sincerely

(Name)
Investigating Officer

Encs.

Specimen Letter 9

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

Date

Special Delivery

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.

Either

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.

Or

The investigating officer finds that that there is some foundation to the allegation and the matter has been referred to be considered through Formal Management Intervention and Guidance. You will shortly receive an invitation to a meeting under this procedure.

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

****Please delete to indicate whether the case is one of misconduct or gross misconduct***

*Copy to: Personal File
Trade Union Representative*

Specimen Letter 10

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

Date

Special Delivery **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 11

Letter of Suspension

Date

Special Delivery

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).
- related reason for suspension detailed in policy
 - detail(s) of alleged offence(s)

Alternative working arrangements have been considered as an alternative to suspension and have been considered as inappropriate because (insert reasons).

Your suspension will take effect immediately from (day), (date), (time) and will continue for a period of time not exceeding (4?) week(s) without review. There will be an initial review of this suspension within 5 working days and you are invited to attend on (**DATE**) at (venue) and you are entitled to be accompanied by your trade union or other representative. (*Alternatively* 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 should inform the school if you experience sickness absence and, in such circumstances, you would receive the appropriate sickness pay.

You will be notified in writing of the details of a Management 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 (**Name**) or your Trade Union/Professional Association Representative.

Yours sincerely

**Insert as appropriate*

Copy to: Appropriate Trade Union Representative

Personal File

Specimen Letter 12

Initial Review of Suspension

Date

Recorded Delivery

Personal and Confidential

Name and Address

Dear

Initial Review of Suspension

I write to confirm the outcome of the Initial Review of your suspension which took place on **[DATE]**.

You will continue to be suspended from duty pending the outcome of the disciplinary investigation **OR** for a further four weeks when your suspension will be reviewed again on **[DATE]**.

As detailed in the initial notification of suspension letter, dated **[DATE]** the reason for your continuing suspension is as follows:

- related reason for suspension detailed in policy
 - add detail(s) of alleged offence(s)
- add any additional reasons arising since the suspension and or at the meeting.

At the meeting you made the following comments *and or concerns and or issues*:
[Amend above as appropriate and list with any responses given].

Whilst ongoing suspension reviews may well take place as a meeting with you and or your representative this may not always be appropriate, for example where circumstances have not changed.

Regardless of the circumstances you and your representative can request a Review of Suspension meeting and or provide written representation in advance of and to inform the next review, or in response to the review outcome which will be confirmed to you in writing.

If there is anything you wish to clarify in connection with the above please contact (**name, telephone number, email address**) or your trade union representative.

Yours sincerely,

(Name)

Chair of Governors

Cc: TU Representative, Personal File, Departmental HR Team

Specimen Letter 13

Subsequent Reviews of Suspension

Date

Recorded Delivery

Personal and Confidential

Name and Address

Dear

Review of Suspension

I write to confirm the outcome of the Review of your suspension which took place on [DATE].

You will continue to be suspended from duty pending the outcome of the disciplinary investigation **OR** for a further four weeks when your suspension will be reviewed again on [DATE].

As detailed in the initial notification of suspension, dated [DATE] and confirmed in subsequent confirmation of suspension review letters the reason for your continuing suspension is as follows:

- related reason for suspension detailed in policy
 - add detail(s) of alleged offence(s)
- add any additional reasons arising since the suspension and or at the meeting.

At the/ or in advance of the/ meeting you made the following comments *and or* concerns *and or* issues:

[Amend above as appropriate and list with any responses given].

Whilst ongoing suspension reviews may well take place as a meeting with you and or your representative this may not always be appropriate, for example where circumstances have not changed.

Regardless of the circumstances you and your representative can request a Review of Suspension meeting and or provide written representation in advance of and to inform the next review, or in response to the review outcome which will be confirmed to you in writing.

Cont'd/

If there is anything you wish to clarify in connection with the above please contact **(name, telephone number, email address)** or your trade union representative.

Yours sincerely,

(Name)
Chair of Governors

Cc: TU Representative
Personal File
Departmental HR Team

Specimen Letter 14

Letter to lift suspension/alternative to suspension – return to duty

Date

Recorded Delivery

Personal and Confidential

Name and Address

Dear

Lifting of Suspension*/Alternative to Suspension – Return to Duty

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

The investigatory officer finds that there is insufficient consistent evidence to support the allegations made and thus the matter is satisfactorily concluded and no further action will be taken.

Further to my letter of **(date)** in which you were formally notified of the terms of your suspension **(or alternative to suspension)** from duty on normal pay, I am writing to confirm that the governors met on **(date)** and agreed to lift your suspension with **(immediate effect/with effect from (date))**.

(Insert here any details about return to work arrangements)

Yours sincerely

(Name)

Chair of Governors

Cc: TU Representative

Personal File

Departmental HR Team

Specimen Letter 15

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

Date

Special Delivery

Personal and Confidential

Name and Address

Dear

Allegation of Misconduct /Gross Misconduct *

I am writing to confirm that following a disciplinary hearing held on ...**DATE**.....at ...**VENUE**.....

Either

the panel agreed that the allegation was not proven and no further action will be taken.

OR

the panel agreed to refer the matter to be most appropriately addressed through Formal Management Intervention and Guidance and you will shortly receive an invitation to a meeting under this procedure.

I hope you consider that the issues have been dealt with fairly and reasonably. I would like to thank you for your co-operation.

Yours sincerely

Headteacher/Chair of Sub-Committee

Cc: Personal File

Trade Union Representative

**** Please delete as appropriate to indicate whether misconduct or gross misconduct***

Specimen Letter 16

Written Warning

Date

Special Delivery

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 your personnel file (*As the allegation concerned harm to the safety and welfare of a child/children the record will be kept until retirement age or for 10 years whichever is the longer.*) Its relevance will be 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 10 working 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 (**NAME**) or your Trade Union/Professional Association Representative.

Yours sincerely

** Select the appropriate statement.*

Cc: Personal File,
Register of Disciplinary Action,
Trade Union Representative

Specimen Letter 17

Final Written Warning

Date

Special Delivery

Personal and Confidential

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 personnel file. (*As the allegation concerned harm to the safety and welfare of a child/children the record will be kept until retirement age or for 10 years whichever is the longer.*) Its relevance will be 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 10 working 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*

Cc: Personal File,
Trade Union Representative,
Register of Disciplinary Action

Specimen Letter 18

Dismissal Letter (Not Summary Dismissal)

Date

Special Delivery

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 personnel file. *(As the allegation concerned harm to the safety and welfare of a child/children the record will be kept until retirement age or for 10 years whichever is the longer. The Local Authority/Governing Body is required to report this dismissal to the Disclosure & Barring Service)*

Its relevance will be 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 incompliance to the DfE and/or the National College for Teaching & Leadership and/or DBS. 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

Cc: Personal File
Register of Disciplinary Action
Trade Union Representative

Summary Dismissal

Date

Special Delivery

Personal and Confidential

Name and Address

Dear

Disciplinary Action – Summary 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:

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

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.

If you are entitled to any payments (e.g. holiday pay and superannuation) these will be paid to you up to the date of dismissal.

A record of the allegation and outcome will be retained in the personnel file. Its relevance will be 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.

Where appropriate also add:

As the allegation concerned harm to the safety and welfare of a child/children the record will be kept until retirement age or for 10 years whichever is the longer.

The Local Authority/ Governing Body are required to report the dismissal to the Disclosure & Barring Service).

and

The Local Authority/Governing Body has a duty to report instances where a teacher ceases to be employed for reasons of misconduct or incompetence to the DfE and/or the National College for Teaching & Leadership and/or DBS. 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.

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.

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

(* Ensure date is consistent with the date of decision)

Cc: Personal File
Register of Disciplinary Action
Trade Union Representative

Specimen Letter 20

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

Date

Special Delivery

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.
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*

Cc: Trade Union Representative

Specimen Letter 21

Notification of Appeal Hearing Decision

Date

Special Delivery

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**)

and/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).

or

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 when it is proposed to expunge).

A record of the allegation and outcome will be retained in the personnel file.

Its relevance will be 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.

Where appropriate also add:

As the allegation concerned harm to the safety and welfare of a child/children the record will be kept until retirement age or for 10 years whichever is the longer.

The Local Authority/ Governing Body are required to report the dismissal to the Disclosure & Barring Service).

and

The Local Authority/Governing Body has a duty to report instances where a teacher ceases to be employed for reasons of misconduct or incompetence to the DfE and/or the National College for Teaching & Leadership and/or DBS. 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.

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 Employment Tribunal within three months of the decision to dismiss you, subject to you satisfying the criteria.)

Yours sincerely

Cc: Personal File - Register of Disciplinary Action
Trade Union Representative

** Delete as appropriate.*

Monitoring and Review

The Governing Body will monitor and evaluate the Procedure.

It is rarely necessary to utilise the disciplinary procedure in schools so there will be no requirement for an annual report to the Governing Body from the Headteacher. Should the Governing Body identify that the procedure has been used on multiple occasions they may request a report on its operation. The report will not identify any individual by name. The report will include an assessment of any particular potential impact of the procedure on employees with regard to the following protected characteristics:

- Race
- Sex
- Sexual Orientation
- Disability
- Religion & Beliefs
- Age
- Part-time Status
- Maternity and Pregnancy

The Headteacher will report on whether there have been any appeals or representations on an individual or collective basis on the grounds of alleged discrimination. The Governing Body will respond appropriately to any request from the local authority for equalities data, so that wider information can be collated concerning the application of the procedure in relation to any protected characteristics represented across the county schools' workforce.