

Disciplinary Policy & Procedure

Model Policy for Schools

February 2021

EVERY
CHANCE
for EVERY
CHILD

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1. POLICY STATEMENT

- 1.1. School employees are expected to abide by the highest standards of conduct and behaviour, as set out in the Disciplinary Rules (appendix A) and the Code of Conduct. Alleged breaches of these standards will be dealt with fairly, consistently, and transparently under the Disciplinary Procedure.
- 1.2. The aim is to improve conduct primarily by advice and correction rather than by disciplinary measures, recognising the disciplinary procedure is a corrective rather than a punitive process.
- 1.3. Cases involving poor performance caused by ill-health or lack of capability are dealt with under separate procedures.
- 1.4. The Disciplinary Procedure forms a key part of the contract of employment between employees and the school/Council. The confidentiality clause applies to all employees involved in the disciplinary process.

2. APPLICATION

- 2.1. This procedure applies to all employees (teaching and support staff) with more than 26 weeks service (and not subject to a probationary period) directly employed by a school for whom the Governing Body has responsibility in respect of discipline. Other schools within the Local Authority may, at the discretion of their governing body, choose to adopt this procedure.
- 2.2. The outcome of disciplinary hearings will be taken into account when assessing whether or not a newly qualified teacher has successfully met the standards required for statutory induction.

3. EQUALITY CONSIDERATIONS

- 3.1. It is important that the procedure is applied in a fair manner at all times. This means that no employee shall be subject to discriminatory practice in the administration of the disciplinary procedure. The Council actively opposes racism, sexism, and all forms of discrimination against employees of any particular creed, ethnic or national origin, gender, age, disability, marital status, or sexual orientation.

4. ROLES AND RESPONSIBILITIES

4.1. Employees must:

- Comply with the standards set out in the school's Code of Conduct and Disciplinary Rules, and any local rules and regulations required for carrying out their job safely and effectively on behalf of the school.
- Comply with relevant statutory professional standards (e.g. the Teachers' Standards)
- Comply with all reasonable management instructions.
- Comply with confidentiality requirements

4.2. Headteachers must:

- Manage and monitor employees' conduct.
- Deal with allegations of minor acts of misconduct informally, promptly and by appropriate counselling and instruction.
- Invoke the disciplinary process promptly where necessary.
- Remind employees of their right to be accompanied under the procedure
- Ensure that the employee is aware of the status of any meeting or hearing held under this procedure.
- Provide the employee with a copy of this procedure if any action is contemplated under the formal stages of the procedure (i.e. other than informal action).
- Comply with confidentiality requirements

4.3. Governing bodies:

- Have a statutory responsibility to determine the disciplinary rules and disciplinary procedures to be followed when dealing with alleged misconduct within the school.
- Are responsible for ensuring that fair, consistent and objective procedures exist for matters relating to staff discipline.
- Have a responsibility, along with the Headteacher, for determining whether the suspension of an employee is necessary. Only the governing body may end a suspension.
- Are responsible for handling allegations of misconduct against the Headteacher, advised by the Local Authority, as necessary.

5. RIGHT TO BE ACCOMPANIED

- 5.1. An employee has a right to be accompanied by an accredited worker's companion (i.e. Trade Union representative) or a work colleague, at all formal stages of this procedure. They should be informed of this right, be given advanced notice of such meetings, and given reasonable time to contact a representative. If the employee's chosen companion is not available at the time fixed for the meeting, it should be rescheduled to accommodate the availability of the companion, as long as a reasonable alternative date is offered which is within 5 working days of the originally proposed date.
- 5.2. Unless required to attend as a witness, people who are not in the employ of the Council, agencies, groups, businesses, or individuals which are not formally recognised through the Borough's employee relations process are excluded from participation in any part of the Disciplinary Code. In particular, employees are precluded from being represented by solicitors or legal practitioners.
- 5.3. Employees are responsible for arranging their own representation.
- 5.4. The employee must notify the Headteacher in advance of meetings and hearings of their wish to be accompanied, and the name and role of their chosen trade union representative or work colleague.
- 5.5. The Headteacher has the right to request that the employee find an alternative trade union representative or work colleague if the individual is a witness in the case.
- 5.6. The trade union representative or work colleague should be allowed to address the disciplinary hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing. The trade union representative or work colleague does not, however, have the right to answer questions on the employee's behalf, address the meeting if the worker does not wish it, or prevent the employer from explaining their case.

6. THE ROLE OF THE LOCAL AUTHORITY

- 6.1. A representative of the authority may attend and offer advice at all proceedings relating to the dismissal of any teacher, where the Council is the employer.

- 6.2. The authority may offer advice to the governing body in relation to the dismissal of any teacher in a voluntary aided or foundation school, where the school has a written agreement with the authority to this effect.

- 6.3. The governing body must consider any advice offered by the authority in these circumstances.

7. ACTION IN RESPECT OF TRADE UNION REPRESENTATIVES

- 7.1. Where disciplinary allegations involve a trade union representative, no action should be taken until the circumstances of the case have been discussed with the Branch Secretary, Area Official or other senior trade union representative. In cases of alleged gross misconduct by a representative of a recognised professional association or trade union and where the branch secretary or full-time official cannot be contacted quickly, the representative may be suspended on full pay until such consultations have taken place.

8. REFERRING CONDUCT ISSUES TO EXTERNAL ORGANISATIONS

- 8.1 Where it is required to do so, the school will refer conduct issues/allegations to the appropriate external professional, public and statutory bodies. This includes referrals to the Disclosure and Barring Service and/or the Teaching Regulation Agency in relevant circumstances.

9. CRIMINAL OFFENCES

- 9.1 Charges or criminal offences committed outside of the employment / working hours with the school shall not be treated as an automatic reason for disciplinary action. However, employees are required to inform the school of any such criminal charges or convictions in order that the school can consider whether any disciplinary proceedings will be taken against the employee, up to and including summary dismissal.

- 9.2 Where a police investigation or a charge is pending, it may be necessary to delay investigations, however this is not in itself a reason for delaying or withholding disciplinary action, if the alleged offence is relevant to the employment, and

enough evidence is available to enable the person hearing the complaint to be reasonably satisfied as to the relevant facts, it may be possible to continue.

- 9.3 Where there is misconduct at work and this is also the subject of a criminal investigation, the school should apply the disciplinary procedure in the normal way. However, in carrying out a disciplinary investigation, it will need to exercise caution to ensure that it does not impede police enquiries.
- 9.4 An employee shall not be disciplined solely because a charge is pending or because of absence through having been remanded in custody. It is strongly recommended that advice be sought from your HR provider in all such cases. In addition, the school should attempt to establish if the employee involved is in a trade union and make contact with appropriate Branch Secretary to discuss the situation.

DISCIPLINARY PROCEDURE FOR SCHOOLS

10. INFORMAL ACTION

- 10.1 In advance of formal disciplinary action, cases of less serious breaches of conduct (i.e. first breaches of some types of misconduct) can be dealt with informally by counselling the employee. This involves drawing to the employee's attention the unsatisfactory conduct, explaining what conduct is required and allowing a reasonable period for the employee's conduct/behaviour to improve. Any resulting professional advice and/or management instruction may be confirmed in writing to the employee.
- 10.2 In some cases, it may be beneficial to use external mediators to resolve conflict in the workplace.
- 10.3 Consideration should be given to any difficulties which a member of staff may be facing, and a genuine attempt should be made to overcome them. Where considered appropriate, managers should seek advice from the Occupational Health section when managing staff who indicate signs of mental illness or who may be suffering from alcohol or substance abuse.
- 10.4 Except in cases of serious or gross misconduct, the formal procedure should not be used as a first resort.

10.5 Where informal action does not lead to the required improvement in conduct, or the alleged misconduct is sufficiently serious, then the formal stages of the Disciplinary Procedure will be used.

11. CHILD PROTECTION/SAFEGUARDING ISSUES

11.1 If allegations are made against employees which involve child protection issues, the Child Protection Procedure must be followed irrespective of how the allegation arises. Employees will be suspended pending the outcome of the Child Protection (Allegations Against Staff) Meeting. If the relevant child protection agencies decide not to pursue formal action against the employee, the matter will be referred back to the school for consideration under the appropriate procedure.

11.2 Only once the matter has been referred back to the school will action under the appropriate procedure commence. The fact external agencies have not pursued formal action should not be taken as a presumption of innocence or guilt on behalf of the employee.

12. DISCIPLINARY SANCTIONS

12.1 The following formal stages of disciplinary action can be taken for breaches of conduct.

12.2 Warnings are progressive from First to Final except for:

- (i) cases of gross misconduct (which may result in summary dismissal);
- (ii) cases which are less serious than gross misconduct but warrant a Final Warning being issued regardless of prior formal warnings.

Disciplinary Action	Authority to Issue	Duration of Warning on Personal File
First written warning	Headteacher	6 months
Second written warning	Headteacher	9 months
Final warning	Headteacher	12 months
Dismissal	Disciplinary Panel	-

12.3 During the term of a disciplinary warning further misconduct may occur. Where this results in a formal hearing and a further warning is issued, the duration period for both warnings must expire before cancellation takes place. For example, where a second written warning is issued to an employee who has an outstanding first written warning, the period of the second warning (9 months) would be added to the remaining period of the first warning.

12.4 The total period would have to expire before cancellation of both warnings takes place. An employee must be held accountable for further misconduct if an existing warning is in force at the time the new alleged offence was committed, irrespective of when the offence comes to light or if the Hearing is arranged once the current warning(s) have expired.

12.5 Upon expiry, all disciplinary warnings will be removed from an employee's personnel file and destroyed.

12.6 An employee with a final written warning on file who is alleged to have committed a further occurrence of misconduct must be treated as if the allegation was of gross misconduct. This is because if the allegation is substantiated, the employee would be dismissed. Therefore, letters to the employee should include the warning of dismissal (as per allegations of gross misconduct).

12.7 **Warnings without a Hearing**

Where the investigation entirely substantiates an allegation of misconduct, the employee (or their Trade Union representative) can formally request the issuing of a First Written Warning without the need for a Hearing. If the Headteacher agrees that the disciplinary sanction befits the allegation, a First Written Warning may be given that will remain on the employee's record for 6 months from the date it is issued. It is only appropriate for issues which would warrant a first written warning. If the Headteacher judges that it is not a minor incident of misconduct, or if the employee has current warnings on file, the matter must be referred to a full Disciplinary Hearing.

13. INVESTIGATION STAGE

13.1 **The Investigating Officer**

The Chair of Governors or Headteacher is responsible for appointing an Investigating Officer. Where the Headteacher carries out the investigation any disciplinary hearing must be heard by a panel comprising of two governors (other than the Chair of Governors). It is envisaged that the Headteacher will only conduct the investigation in exceptional circumstances, and advice should be sought from the School's HR Provider beforehand.

13.2 Investigations should normally be carried out by the immediate line manager. If this is neither practical nor appropriate, another Investigating Officer should be chosen. Alternatives to the line manager could include an employee of equal or more senior status within the employing school, another school or from within the LA. Advice should be sought from the School's HR Provider on the appropriateness of the Investigating Officer.

13.3 Where an external investigation is required or desirable, the Chair of Governors is responsible for commissioning this. A list of independent external investigators is held by the Local Authority.

13.4 The Investigation

The case must be thoroughly investigated, clearly written, and supported by evidence. Care must be taken not to allow assumptions or stereotypical attitudes to prejudice decisions.

13.5 The Investigating Officer will conduct an investigation into the alleged misconduct, with a view to obtaining evidence of innocence as well as guilt and to obtaining any evidence in mitigation. The Investigating Officer may appoint any other person to assist in the investigation.

13.6 The investigation may include a face to face interview with the employee, but this is not mandatory. The employee may provide if they wish, a written statement or response to the Investigating Officer.

13.7 The employee is required to co-operate fully with the Investigation to ensure that the investigation can be completed as swiftly and as thoroughly as possible. If pupils are to be interviewed as part of the investigation the employee's union representative or a work colleague may attend to observe the interview to ensure impartiality. They may not ask questions. The Investigating Officer should invite the pupil's parents to attend. This provision does not require an observer at any meeting where a disciplinary allegation is initially made by a pupil.

13.8 Any investigation involving school staff will be conducted within the working days for those staff and timetabling should therefore take into account school closure periods.

13.9 The Investigating Officer will produce an Investigation Report setting out;

- (i) evidence gathered
- (ii) a decision that either:

- there should not be a formal disciplinary meeting to consider imposing a formal disciplinary sanction
- there should be a formal disciplinary meeting to consider imposing a formal disciplinary sanction

(iii) if a disciplinary meeting is decided upon:

- the specific allegations to be considered at the meeting, and a statement whether dismissal may or may not be an appropriate sanction at the end of the disciplinary meeting, subject to mitigation.

13.10 The Investigation Report and its supporting documentation are confidential documents. If the decision is that there is a formal disciplinary meeting the employee will be sent the Investigation Report and all supporting documentation and witness statements. If the decision is that there shall not be a formal disciplinary meeting the Investigation Report and supporting documentation and witness statements shall not be disclosed.

13.11 Timescales for Investigations

All allegations and complaints against employees must be investigated speedily (particularly in cases of potential gross misconduct). The Headteacher/Manager should ensure the Investigating Officer has reasonable time off from normal duties to ensure the investigation is concluded as soon as possible.

13.12 As a guide, from the time the Investigating Officer commences their investigation, the investigation report should be completed within 20 working days for all allegations of misconduct and other instances where the fact finding is relatively straightforward. For allegations of gross misconduct and more complex cases, the investigation process should take no longer than 30 working days (unless agreed in advance). Where an investigation is likely to be prolonged (through unexpected delays or school closure periods) all parties should be kept informed and agreement sought on the revised timescale.

14. SUSPENSION

14.1 In cases of alleged gross misconduct, once it has been established that there is a *prima facie* case to answer, an employee can be suspended from work on full contractual pay at any stage of the investigation, if the Headteacher (or Chair of Governors in the case of an allegation against the Headteacher) believes that any of the following circumstances apply:

- The investigation could be compromised by the continued presence of the employee in school;

- There is a serious risk to pupils, other employees, or to school resources or property, by the employee remaining in school;
- The allegations relate to safeguarding issues;
- The reputation of the school or Council could be compromised by keeping the employee at work.

14.2 The employee will be suspended from duty by the Headteacher. The Headteacher will notify the governing body immediately of the suspension.

14.3 The Headteacher is advised to consult with their HR Provider before suspending an employee from duty. Where the Council is the employer, the Headteacher must advise the Local Authority of the suspension and the reasons for it.

14.4 Suspension is not a form of disciplinary action or an indication that the allegations made are assumed to be true. In some cases, it may be possible to accommodate a temporary reassignment to other duties or restriction of current duties rather than suspension. This should be considered on a case by case basis.

14.5 The Headteacher must explain the circumstances and conditions of the suspension to the employee and confirm this information in writing as soon as possible.

14.6 Whilst suspended, the employee must make themselves available for meetings on request. They should not make contact with anyone at the school apart from their identified school contact/trade union representative (unless specific approval to contact others has been requested and agreed).

14.7 Management guidance on suspension is set out in the accompanying guidance document.

15. NOTIFICATION OF DISCIPLINARY HEARING

15.1 The employee must be notified in writing at least **10 working days** before the hearing of:

- The date, time, and place of the hearing.
- Who will be conducting the hearing
- The nature of the allegations.
- The right to be accompanied/represented.
- The right to call witnesses and to submit documentary evidence.

- Whether dismissal is a potential outcome of the hearing.

15.2 The letter will give a date (**usually 5 working days** prior to the hearing) for copies of any written evidence to be presented at the hearing to be exchanged.

15.3 The date of the hearing will be postponed by up to five working days if the employee's representative is unable to attend on the specified date. If the employee's representative will not be available for more than five working days afterwards, the employee may be asked to choose someone else.

15.4 Employees must take all reasonable steps to attend a hearing. Failure to attend without good reason may be treated as misconduct in itself. If an employee fails to attend without good reason or is persistently unable to do so (for example for health reasons), a decision may have to be taken based on the available evidence. Separate advice should be sought in respect of employees absent from work due to pregnancy or maternity leave.

15.5 It is important that every effort is made to reach a conclusion in all cases of safeguarding allegations that have a bearing on the safety or welfare of children. If an employee tenders their resignation or refuses to co-operate with the process, this must not prevent such a safeguarding allegation being followed up in accordance with safeguarding procedures. Wherever possible, the person should be given a full opportunity to answer the safeguarding allegation and make representations about it. However, it may be necessary to conduct a hearing in their absence and reach a judgement about whether the safeguarding allegation can be regarded as substantiated on the basis of all the information available. In these circumstances, the Headteacher, Panel or manager may also make a decision regarding the sanction that would have been applied had the employee remained in employment.

15.6 In cases where it is necessary to proceed with a hearing in the absence of the employee and it is known this will be necessary in advance of the hearing, the employee will be offered the opportunity to make additional written submissions to the hearing and/or allow their representative to make statements on their behalf at the hearing. Where non-attendance is not known in advance, after consideration of the circumstances, if postponement is not considered appropriate, the hearing may proceed with consideration of any written submission from the employee already received and, where requested and available, appropriate contributions from their representative.

15.7 Similar consideration as outlined above will be given to the need to proceed with investigatory processes in the employee's absence, where this is appropriate.

16. DISCIPLINARY HEARING

16.1 Where the results of the investigation indicate that there are reasonable grounds to suggest misconduct or gross misconduct, a Disciplinary Hearing should be arranged within **four working weeks** of completion of the investigation. Reasons for any delay in convening a Hearing must be communicated by the Initiating Manager to all interested parties.

16.2 In all cases where dismissal may result, an HR representative (normally from the School's HR Provider) shall attend the hearing. The Local Authority reserves the right to attend or nominate an officer (or nominee) to attend the hearing in an advisory capacity. Headteachers should contact the Local Authority whenever the possibility of such action arises.

16.3 The Investigating Officer's report and all relevant documentation should be sent with a letter notifying the employee of the date, time and place for the hearing giving **five** working days' notice of the hearing for misconduct cases and **ten** working days' notice for cases of gross misconduct (notice periods cover working days either side of school holidays).

16.4 Where a meeting is repeatedly re-scheduled or if an employee is unable to attend for good reason, the employee may present a written submission to the Hearing or request that their chosen companion represents them at the hearing in their absence.

16.5 Composition of the Panel
The Headteacher can personally hear allegations of **misconduct**. If this is neither practical nor appropriate, or where the allegations are of gross misconduct, or other misconduct which could result in the dismissal of the employee i.e. they already have a final warning on file, the Disciplinary Panel will hear the case.

16.6 The Disciplinary Panel will usually comprise the Headteacher (who will chair the hearing) and one governor (other than the Chair of Governors, who will normally sit on the Appeals Committee). Appeals against decisions made by the disciplinary panel must be considered by an Appeal Committee, which consists of three governors, who have had no prior involvement in the case.

16.7 Two governors is the quorum for the Appeals Committee (Education (School Government) Regulations 1999 (SI 1999 No 2163).

16.8 In cases of gross misconduct, the clerk to the governors must attend to take minutes of proceedings. It is their role to minute the significant points of the hearing and the decision of the panel but not to produce a verbatim record.

16.9 At the meeting, the Investigating Officer will explain the allegations and go through the evidence that has been gathered. The employee will be given the opportunity to set out their case and answer any allegations that have been made, including presenting evidence. Witnesses can be called by either side as part of the case.

16.10 Both the investigating officer and employee, and their trade union representative or work colleague can question the case put forward by the other party. The Headteacher or governor panel may question any evidence presented and will be advised by the school's HR Provider.

16.11 The decision maker will consider all the evidence presented and determine whether there are reasonable grounds to believe that the alleged act or behaviour occurred and, if so, what level of disciplinary sanction (if any) should be applied.

16.12 Guidance on conducting a Disciplinary Hearing can be found in the accompanying guidance document.

17. CONFIRMATION OF DISCIPLINARY OUTCOME

17.1 The panel will hold a short adjournment and, if possible, a decision will be given verbally at the end of the hearing to the employee and the investigating officer.

17.2 If a longer adjournment is required, the hearing will be concluded, and arrangements made to notify the employee (in person or by telephone) of the outcome within **five working days**

17.3 In either case, the outcome will be confirmed in writing to the employee, along with the right of appeal, within **10 working days** of the hearing.

17.4 The outcome of the hearing can be one of the following:

- Allegation not proven
- revert back to informal management processes;
- Written warning (remaining on file for 6/9 months)
- Final written warning (remaining on file for 12 months)

- Summary dismissal without notice (immediate, without pay in lieu)
- Dismissal with notice (remaining on file for the duration of the notice period)

The last option is only applicable where an allegation of misconduct, not amounting to gross misconduct, has been proven and there is a final written warning in effect with dismissal being the next level of disciplinary sanction.

17.5 Where an existing warning is already in place, the level of sanction imposed on a new occasion will be the same or higher than the one already in effect.

17.6 If the Headteacher/governor panel decides that a warning should be issued, the written confirmation will include:

- The nature and level of the warning;
- The reasons why it is being given;
- The standards of conduct required in future;
- The consequences of future misconduct;
- The right of appeal.

17.7 If the Headteacher/governor panel determines that the employee should be dismissed, the written confirmation will include; the date of the end of the contract, details of any notice period, the reasons for the decision, and the employee's right of appeal.

17.8 Where the Local Authority is the employer, the Headteacher/chair of the panel will, on behalf of the governing body, write to the Local Authority asking that notice of dismissal be issued to the employee within 14 days of the date of dismissal (or in the case of gross misconduct, that dismissal takes place with effect from the date of the dismissal hearing). Otherwise, the Governing Body will issue notice of dismissal.

17.9 The Headteacher must formally report any instances of dismissal to the Governing Body (and to the Council where it is the employer). Such a report is limited to a notification of the decision only. Should an appeal be lodged it is important that members of the Governing Body have no detailed prior knowledge of the disciplinary case itself so that they can ensure an unbiased appeal hearing.

18. APPEAL

18.1 Employees have the right of appeal against all formal disciplinary action. In submitting an appeal, employees are asking the Governors Disciplinary Appeal

Panel to consider the fairness and reasonableness of any disciplinary measures taken at the original Hearing.

18.2 Appeals against disciplinary action will only be considered on one or more of the following grounds:

- (i) the **PROCEDURE** – the grounds of appeal should detail how procedural irregularities prejudiced the disciplinary decision.
- (ii) the **FACTS** – the grounds of appeal should detail how the facts do not support the decision or were disregarded, misinterpreted, or were considered not relevant. They should also detail any new evidence to be considered.
- (iii) the **DECISION** – the grounds of the appeal should state how the act(s) of misconduct did not justify the level of disciplinary action taken or the act was one of misconduct rather than gross misconduct.

18.3 Appeals must be registered with the Chair of Governors within **ten days** of the date of the letter confirming the disciplinary decision. Appeals received after this period will not be heard.

18.4 The appeal will concentrate on the area(s) of dispute only and will not be a re-run of the whole disciplinary hearing. Accordingly, it is important that the employee (or their representative) is explicit about the grounds for appeal and must provide clear and specific reasons in writing. Such written notice of appeal must include reference to any new facts the appellant intends to raise at the appeal.

18.5 Employees must present any new evidence which was unavailable at the time of submission of the appeal documentation at least **three working days** prior to the Appeal hearing so that management may have an opportunity to respond.

18.6 Appeals will be convened as soon as is reasonably practicable and the Appellant will be given **five working days**' notice of the time and venue of the Appeal hearing.

18.7 The result of the Appeal and the reasons for the decision will be conveyed to the Appellant immediately after the Hearing and will be confirmed in writing within **five working days** by the Chair of the Appeal Panel.

18.8 There will be no further internal right of appeal. The appeal decision may be:

- To confirm the sanction

- To decrease the sanction
- To remove the sanction.

18.9 Guidance on how to conduct a Disciplinary Appeal Hearing can be found in the accompanying guidance.

19. ARRANGEMENTS FOR DEALING WITH ALLEGATIONS AGAINST THE HEADTEACHER

19.1 The procedure for dealing with allegations of misconduct against the Headteacher will be as set out above, with the following variations.

19.2 If it is necessary, the Headteacher will be suspended from duty by the Chair of Governors, after consulting with the school's HR provider and the Local Authority.

19.3 The Chair of Governors will appoint an investigating officer to investigate the allegation, in consultation with the school's HR provider and the Local Authority. This may be an external investigator with experience of schools.

19.4 At any disciplinary hearing, the disciplinary case for action short of dismissal will be heard by a panel of at least three governors.

19.5 At any disciplinary hearing where dismissal is a potential outcome, the case will be heard by a panel of at least three governors, one of whom should be the Chair or vice-Chair of Governors.

19.6 The Disciplinary Panel will be advised by the school's HR provider.

19.7 In the event of an appeal, a panel of at least three governors, with no previous involvement in the case, will consider the appeal. This will normally be chaired by the Chair or vice-Chair of Governors.

19.8 Where the Council is the employer or where there is an agreement with the school for the Local Authority to advise on such matters, the Local Authority will be invited to advise on disciplinary/dismissal and appeal proceedings for the Headteacher.

20. CONFIDENTIALITY

20.1 As part of Disciplinary and Grievance processes those involved may have access to information that is of a personal, confidential, sensitive, and/ or proprietary nature, for the purpose of fulfilling procedural obligations. For example: personal information related to staff such as names, e-mail addresses, salaries, employment information, and/or service issues, data, financial information ("confidential information").

20.2 All involved with any application of the disciplinary policy / procedure must:

- Hold all confidential information in trust and strict confidence and agree that it shall be used only for the purposes required to fulfil employment obligations, and shall not be used for any other purpose, or disclosed to any third party.
- Keep any confidential Information in a physically secure location
- Maintain the absolute confidentiality of personal and confidential information in recognition of the privacy rights of others at all times, and in both professional and social situations.
- Comply with all privacy laws and regulations, which apply to the collection, use and disclosure of personal information
- At the conclusion of any discussions, or upon demand by management, return all confidential information, including prototypes, code, written notes, photographs, sketches, notes taken, to School/Council possession and the responsible Headteacher.
- Not disclose confidential, personal and/or proprietary information to any employee, consultant or third party unless they agree to execute and be bound by the terms of this agreement and have been approved by the school / Council / Trade Union in an official, legal capacity.

20.3 A breach of confidentiality or misuse of information could result in disciplinary action up to and including termination of employment.

21. FURTHER INFORMATION

For further information please contact your HR provider.

APPENDIX 1: DISCIPLINARY OFFENCES

GROSS MISCONDUCT

“Gross misconduct” is the term given to misconduct that is so serious it undermines the contract of employment. A single act of gross misconduct will warrant dismissal, even if no previous warnings have been given. There is no definitive list of examples that constitute misconduct or gross misconduct and the examples given below are not exhaustive.

- (i) Defrauding or stealing from the School/Council, its partners, members of the public, employees, Members of the Council or any other person or organisation with whom the employee comes into contact with in the course of employment. Examples include falsification for financial gain of any document such as timesheets, invoices, receipts, accounts, overtime claims, application forms; falsification of qualifications which are a stated requirement of employment or which result in financial gain.
- (ii) Attempting to steal or defraud and colluding with other parties to steal or defraud, or unauthorised use of or willful damage to School/Council property will also be considered as gross misconduct.
- (iii) Corrupt or improper practices. Examples include improper use of official position for personal and/or financial advantage, or for the private advantage of some other person or organisation; failing to disclose private interests which conflict with the Council's interests.
- (iv) Engaging in unauthorised employment or business during hours when contracted to work for the School/Council e.g. when on sick leave, study leave or suspension.
- (v) Serious acts of discrimination, victimisation, bullying and/or harassment of any individual or group.
- (vi) Prolonged unauthorised absence from work (at least **ten working days** without contact).
- (vii) Inappropriate conduct towards or contact with pupils.
- (viii) Maltreatment, abuse, or willful neglect of those in care, or whose personal welfare is otherwise the responsibility of the Council.

- (ix) Serious sexual offences and/or misconduct at work.
- (x) Serious breach of health and safety which endangers any individual e.g. damage to, misappropriation of, or neglect of safety equipment.
- (xi) Willful unauthorised disclosure of confidential information or data e.g. disclosure of sensitive personal information or commercially valuable information.
- (xii) Failure to report or record any matter which it is the employee's contractual duty (either expressed or implied) to report.
- (xiii) Fighting or acts of violence at the work place, serious threatening or abusive behaviour towards staff, Council colleagues, pupils, governors, members of the public, clients, and elected Council representatives.
- (xiv) Criminal offences outside work (including fraudulent activities such as claiming Housing Benefit or unemployment benefit etc.) which may affect the individual's employment suitability.
- (xv) Being incapable of adequately performing duties as a result of the abuse of alcohol or drugs.
- (xvi) Serious contravention of the Staff Computer Security Agreement or School/Council's Policy on Internet Access and Social Media websites. Employees must not use electronic mail, the Intranet or Internet to deliberately access internet sites containing pornographic, racist, offensive, or obscene material or to use these to generally harass or threaten fellow employees or others.
- (xvii) Deliberate and willful negligence in job performance, likely to damage the School/Council's reputation or have serious implications for service users or colleagues.
- (xviii) Gross negligence, incapability, or incompetence, including serious professional misjudgment, which destroys the confidence in the employee e.g. failing to supervise a contract which leads to serious financial loss to the School/Council
- (xix) Obtaining a job by lies or deception in the course of selection procedures.
- (xx) Repeated acts or a pattern of behaviour that destroys the confidence in the employment relationship.
- (xxi) Making false claims under any of the School/Council's policies and procedures.

OTHER MISCONDUCT

- (i) Regular lateness for work
- (ii) Regular failure to follow employment rules e.g. reporting absence
- (iii) Refusal to obey a reasonable instruction of the Supervisor
- (iv) Negligence at work leading to loss, damage or wastage of schools/LA or public property
- (v) Improper, disorderly, or unacceptable conduct at, during or when arriving for work.
- (vi) Inappropriate drinking of alcohol at work
- (vii) Willfully inadequate work performance (poor performance or lack of capability will normally be the subject of Capability procedure)
- (viii) Abusive or threatening behaviour towards a member of the public, clients, fellow employees, elected Council representatives
- (ix) Breaches of the School/Council's Standing Orders and Financial Regulations
- (x) Neglect of duty e.g. where an employee without good cause fails to discharge the obligations placed on them by their contract of employment; or by carelessness or neglect causes any loss, damage or injury to occur to any person or property; or fails to report any matter it is his or her duty to report.
- (xi) Knowingly making false, misleading, or inaccurate oral or written statements to Council members or other employees or members of the public.
- (xii) Disregard of the safety rules which have previously been brought to the employee's attention.
- (xiii) Engaging in other businesses without the required consent of the Head teacher
- (xiv) Failure to notify the Head teacher of any gift, benefit, hospitality, or other advantages in breach of the School's policy.
- (xv) Improper use of the school's e-mail, internet, and telecommunications.
- (xvi) Damage to or unauthorised use of Council's property.

- (xvii) Smoking in no smoking areas.
- (xviii) Persistently failing to follow to the School's Acceptable Standards of Appearance.
- (xix) Persistently failing to display School's identification when at work.

APPENDIX 2: FLOW CHART FOR DISCIPLINARY HEARING

