



Southerly Point
Co-operative
Multi-Academy Trust

Southerly Point Co-operative Multi-Academy Trust

**DISCIPLINARY POLICY
& PROCEDURE**

Equality Impact Assessment

The EIA has not identified any potential for discrimination or adverse impact and all opportunities to promote equality have been taken.*	
The EIA has not identified any conflict with the Trust's co-operative values.	
Adjust the policy to remove barriers identified by the EIA or better promote equality.	

*Inclusive of protected characteristics

Provenance	Date
Working Party	Nov 2016
HR checks	June 2017
Union Consultation	Aug 2017
Trustees	Sept 2017
Implementation	Oct 2017

Review Date
October 2020

To be read in conjunction with:	Appraisal Policy and Capability Procedure Grievance Policy and Procedure Whistleblowing Policy
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**Self Help Self Responsibility Equity Equality Democracy Solidarity
Social Responsibility Honesty Openness Caring for Others**

Southerly Point Co-operative Multi-Academy Trust
DISCIPLINARY POLICY AND PROCEDURE

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SCHOOL DISCIPLINARY POLICY and PROCEDURE

1 Introduction

- 1.1 The Trust expects all its employees to recognise their obligations to the schools, the public, students and other employees and to conduct themselves properly at all times and in accordance with the Trust's Codes of Conduct and all other policies and procedures.
- 1.2 The procedure is designed to reflect the individual's right to natural justice, the rights identified in the Human Rights Act and the law as set out in Employments Acts and regulations.
- 1.3 *Under the terms of the School Staffing (England) Regulations 2009 (Regulation 4)*, the Trustees have overall responsibility for decisions relating to disciplinary sanctions in respect of misconduct from employees at the schools, but is allowed to delegate this responsibility to the Governing Body who can delegate further to the Headteacher, an individual Governor or group of Governors (with or without the Headteacher) (with the exception of the dismissal of Headteachers).
- 1.4 All decisions on disciplinary procedures including dismissal within the Trust schools have been delegated to the Local Governing Body with the exception of headteachers, the executive team and CEO when it will be the responsibility of CEO and the Trustees respectively. Where there are concerns regarding a headteacher the Chair of Governors or an appropriate governor may be part of the panel.
- 1.5 Where dismissal of an employee is under consideration, this will be heard by the head teacher and a panel of governors unless it is inappropriate for the head to be involved. In determining its delegated responsibilities to the Headteacher in this respect, Governors will give consideration to the following:
- A Headteacher who is unwilling to perform this function and whose previous history of service at the school did not include any such responsibilities. This gives an existing Headteacher the option of preserving their current working arrangements but when the Trustees consider a new appointment for the Headteacher post, the normal expectation for the Headteacher to undertake these responsibilities should apply.
 - Where the Headteacher has been directly involved in disciplinary procedures leading to dismissal, has instigated a proposal to dismiss or is a witness.
 - Where the Headteacher is subject to suspension, disciplinary or capability procedures or a disciplinary sanction.
 - Where the CEO has serious concerns about the performance of the Headteacher.
 - Where the Headteacher has failed to abide by financial limits agreed by the Trustees/Governing Body for any School purpose.
- 1.6 Where the Governing Body decides not to delegate dismissal decisions to the Headteacher, the Headteacher has a right to attend and provide advice at all relevant proceedings (in accordance with Regulation 4 of the School Staffing Regulations 2009). Any advice must be considered by the governor or governors to whom the delegation has been made. This is normally provided by way of a report to the Disciplinary Panel of Governors.
- 1.7 The Governing Body should review with the Trustees, at least annually or otherwise where necessary, the continuation of any circumstances where the Headteacher does not lead on these staffing matters because of concerns about their conduct or performance.
- 1.8 Where the Headteacher 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 Headteacher's place. The Headteacher should have an opportunity to make representations on any decisions to discontinue or continue delegated responsibility.
- 1.9 It is expected that typically meetings convened under the Procedure will be held during term-time. However, in the interests of best practice, fair treatment and the health and wellbeing of

employees, meetings may be held during school holidays with the agreement of all parties - the employee concerned, Headteacher, Governors, witnesses, trade union representative/workplace colleague.

If it is not possible to obtain the agreement of all parties to meet in a school holiday period, the appropriate notice should be given for an alternative term-time date.

2 Purpose

2.1 The Trust's procedures are designed to clarify the rights and responsibilities of the School and its employees and to ensure that disciplinary action taken is both fair and reasonable and is applied equitably and with consistency in every case; the main purpose being to help and encourage employees to achieve and maintain acceptable standards of conduct.

2.2 The Trustees are responsible for maintaining fair, consistent and objective procedures for matters relating to staff discipline across the schools. The Local Governing Body is responsible for maintaining fair, consistent and objective procedures for matters relating to staff discipline in their school.

2.3 The Headteacher is responsible for the overall management of the School

2.4 Employees have responsibility to:

- Conduct themselves appropriately
- Comply with the reasonable directions of the employer
- Behave in a trustworthy manner at all times
- Take care over the work assigned to them
- Strive to maintain good employment relationships.

2.5 Employees are expected to observe all reasonable rules, policies and procedures which cover the following, amongst other things:

- Absence procedure
- Timekeeping
- Standard of dress
- Health and Safety
- Use of School facilities and equipment
- Anti-discrimination
- Anti-bullying and harassment
- Professional good conduct.

3 Scope

3.1 The policy and procedure applies to all employees of the Trust. This policy and procedure does not form part of any employees' contract of employment.

3.2 The Trust reserves the right to invoke any stage of the disciplinary procedure according to the seriousness of any unsatisfactory conduct regardless of any management warnings.

3.3 Actions taken by employees outside working hours may also fall within the scope of this policy if there is an impact on the employee's ability and/or suitability to do his/her job, or the actions may bring the Trust, School or employee into disrepute.

3.4 Where an employee is subject to more than one allegation relating to their conduct, these issues may be dealt with together, if appropriate.

3.5 Depending on the circumstances, other policies may be followed in place of, or in parallel with, the Disciplinary Procedure. For example, absence and incapability due to ill health will not normally be addressed under this policy (exceptions may be where the Trust/School believes the absence is not for a genuine reason). In these cases, reference should be made to the Attendance Policy. Concerns about performance will be considered under the Capability Procedure.

4 Policy Statement

- 4.1 The normally accepted rules of behaviour, which apply to society as a whole, will apply equally in the work situation. Any breach of an employee's Terms and Conditions of employment, any conduct, which the Trust considers unsatisfactory or prejudicial to its interests, or any failure to meet the required standards of work, may render an employee liable to disciplinary action.
- 4.2 In addressing these issues, the Trustees/CEO/Headteacher/Governing Body will ensure that all disciplinary cases follow the agreed Disciplinary Procedure, with each case being considered on its merits, without unreasonable delay, and in an objective, reasonable, fair and consistent manner.
- 4.3 It is accepted that to differentiate between general and serious breaches of discipline is difficult. Therefore, each case must be treated on its own merits. Examples of misconduct and gross misconduct are provided in **Appendix 1**, but these are only guidelines and not exhaustive. Discretion will have to be exercised by the Trust/School in categorising breaches of discipline having regard to all the circumstances under which the breach of discipline occurred.
- 4.4 In most instances, good management practice will prevent recourse to formal disciplinary procedures. However, where the formal procedure does need to be applied, it will be done so in accordance with ACAS guide 'Discipline and Grievance at Work' and the principles of 'natural justice', that is:
- in all circumstances where the formal procedure applies, the employee will be informed in writing of any concern(s) about his/her conduct and will know the reason for the Disciplinary Procedure being instigated; a copy of this correspondence will be provided for the trade union representative where requested
 - the employee and/or their representative - who is not related to the employee, unless the employee is a vulnerable adult who should be accompanied by an appropriate adult will be given an early opportunity to explain and account for any alleged misconduct before any disciplinary action is considered and
 - disciplinary hearings will be conducted fairly and impartially.
- 4.5 The maintenance of satisfactory conduct is the responsibility of **all** employees.
- 4.6 The procedure will be applied in a non-discriminatory way to all employees, in line with the Equality Act 2010.
- 4.7 The Governors will ensure that a copy of the procedure is available to all employees.
- 4.8 During the formal stages of this procedure the employee has a right to be accompanied by a work colleague or trade union representative.

THE PROCEDURE

5 Informal Approach

- 5.1 The procedure recognises the importance of informal intervention aimed at improving/changing conduct. Wherever possible, problems should be resolved through an informal process, once the facts have been established. In many situations, informal methods, e.g. performance management meetings, coaching or counselling may prove valuable in bringing about improvements in the employee's conduct before the formal disciplinary procedure is implemented.
- 5.2 Such measures should be documented by mutual agreement, signed and dated on the individual's personal file, but are not to be treated as a formal stage of the Disciplinary Procedure. However, where such action fails or where it is inappropriate, the formal disciplinary procedure will apply.
- 5.3 Formal disciplinary action will therefore only take place when it is decided that:
- Further counselling or training will not bring about the improvement required
 - The alleged misconduct warrants immediate disciplinary action owing to the serious nature of the allegation
 - There is a clear breach of standards and procedures (see Appendix 1 for examples of misconduct or gross misconduct)

6 Formal approach

- 6.1 The decision to invoke the formal Disciplinary Procedure rests with the Trustees, CEO or Headteacher and/or Governing Body depending on the subject of the action.
- 6.2 Disciplinary action will not be taken against an employee until the case has been investigated. For issues of a minor nature or where the facts are not in dispute, a fact gathering exercise will take place prior to taking a decision on whether or not to progress to a disciplinary hearing.
- 6.3 In more serious cases, including gross misconduct, it may be necessary to undertake a separate investigation and interviews to decide whether or not to proceed with a disciplinary meeting.
- 6.4 The following principles will apply in formal disciplinary cases:
- At every stage in the procedure, the nature of the complaint against an employee will be notified to them in writing
 - Employees will normally be given no less than 10 School days' notice of any disciplinary hearing, unless agreed by both parties
 - Employees and the employer may call witnesses as part of any hearing under the formal stages of this procedure
 - Employees will not normally be dismissed for the first breach of discipline except in the case of gross misconduct when the sanction could be dismissal without notice
 - Employees will have the right to appeal the outcome at each formal stage of the procedure
 - The procedure may be implemented at any stage if an employee's misconduct warrants such action. There will be occasion when a final written warning or dismissal is justified for a first offence, so it should not be assumed that the first stage is always a first written warning
 - The notice of the hearing will include the possible outcomes
 - Breaches of discipline need not necessarily be of the same nature to permit progression to the next stage of the procedure
 - At any formal disciplinary investigation or hearing, employees may be accompanied by a work colleague, with their agreement, or by an accredited Professional Association or Trade Union Representative and no-one else
 - Each step and action will be taken without unreasonable delay
 - The timing and duration of hearings will be reasonable
 - Employees must take all reasonable steps to attend the disciplinary hearing. Failure to attend without a reasonable explanation could result in the hearing continuing in the employee's absence and a decision taken on the evidence available
 - Reasonable consideration will be given to facilitating adjustments required in accordance with the Equality Act 2010, for example allowing an interpreter at a formal meeting.
- 6.5 Before implementing the procedure, the School must consider whether ill health or disability factors may be contributing to the employee's conduct. If so, advice must be sought from Occupational Health to decide the best approach to assessing and resolving such contributing factors.
- 6.6 Allegations about the safeguarding and protection of children must be handled in accordance with statutory guidance and the School's safeguarding procedures.
- 6.7 The role of the Designated Safeguarding Lead (DSL) is crucial in handling all allegations of this kind. The DSL has a statutory duty to ensure that allegations about safeguarding are handled properly and expeditiously.
- 6.8 If a case involves alleged financial irregularity, corruption or fraud, as a maintained school, Internal Audit must be contacted at the earliest opportunity and kept informed, without alerting the employee at this stage. Consideration will be given to Police involvement and Internal Audit should be consulted before a decision is made.
- 6.9 Computers and allied equipment and software (including emails) are the property of the School, therefore examination of such equipment or software can take place without the permission of the individual.
- 6.10 If there are suspicions that an employee is misusing School equipment (e.g. by accessing or downloading inappropriate material), the Headteacher will carry out an initial assessment of the circumstances, without alerting the employee at this stage.

- 6.11 Where suspicions are that the misuse of equipment relates to the accessing or downloading of inappropriate material, the Head Teacher, and DSL must be informed without delay after consultation with the LADO. They will determine whether the matter should be referred to the Police.
- 6.12 No internal disciplinary investigation should be initiated whilst the matter is being investigated by the Police/Internal Audit, without authorisation to do so.
- 6.13 If the employee is a trade union representative or if the allegation relates to trade union activity, no action under the disciplinary procedure will be taken until the matter has been discussed with a full time official of the relevant union.

7 Overlapping Disciplinary and Grievance Issues

- 7.1 An employee may raise a grievance after disciplinary proceedings have been initiated. The Headteacher should consider suspending the disciplinary for a short period, not usually more than a week to consider the implications, if any, upon the disciplinary process.
- 7.2 If the grievance concerns matters that are unrelated to the disciplinary, a separate investigation under the Grievance Policy will take place, but this will normally be after the completion of the disciplinary procedure, unless there is a long delay when, for example, the outcome of Police proceedings are awaited.
- 7.3 If the allegation involves matters which relate to the disciplinary process, the grievance will be investigated, but it may be appropriate to deal with both issues concurrently. A grievance will not be accepted if it is a complaint about dismissal or disciplinary action, which should be submitted as an appeal against the disciplinary decision within the time period specified. Following the completion of the disciplinary process, the employee will not be able to pursue the matters under the Grievance Policy.

8 Suspension

- 8.1 An employee may be suspended on full pay in the following circumstances:
- Where there is an allegation which, if proven, may be deemed gross misconduct
 - For the protection of students, colleagues, property or the employee
 - Where it is believed that the continuing presence of the employee in the workplace could interfere with the conduct of the investigation, including the taking of statements
 - Where relationships have broken down
 - There are concerns regarding Health and Safety.

8.2 Suspension with pay

Suspensions should not be 'knee-jerk'. It should be considered whether there are reasonable grounds for suspension, and whether there are viable alternatives to suspension. Any suspension must be with pay unless the contract of employment allows suspension without pay, and any period of suspension should be as short as possible. The employee will be told exactly why they are being suspended, and that they will be called in for a disciplinary meeting as soon as possible. Suspension is not a sanction and should not be viewed as such by any party. It does not imply that any decision about the veracity of the allegations has been made. Employees will be treated fairly and consistently.

The decision to suspend will be made by the Headteacher or member of staff with delegated responsibility in their absence (or DSL in some cases – see 8.5), who will inform the Chair of Governors. In respect of Headteachers, the CEO will make this decision and will inform the Chair of Governors of the school and the Chair of the Trust. As suspension will have a serious impact on the employee, advice should first be sought from the Trust's HR Advisors. Suspension is often a stressful situation and it may therefore be appropriate to offer counselling through the employee's GP.

- 8.3 Consideration should also be given to the following short term alternatives to suspension:
- Working from home
 - Paid leave of absence

- Working in a different location
 - Working in a more closely supervised environment.
- 8.4 Such alternatives should not normally be used for more than one week to allow time for a preliminary assessment of the evidence that is readily available.
- 8.5 Where the allegation concerns the safeguarding of children, a risk assessment must be discussed with the DSL. Once this assessment has been made, a decision about suspension can be taken.
- 8.6 Wherever possible, the employee will have a meeting with the Headteacher at which the allegations and reasons for considering suspension will be discussed and the employee given an adequate opportunity to offer an early explanation. The employee will be encouraged to be accompanied by his/her Professional Association/Trade Union representative or a workplace colleague at this interview. The non-availability of a specific companion will not result in the postponement of the interview. A representative from the Trust's HR Advisors may also be in attendance. At the interview the employee will be verbally advised of the details of the allegation, that an investigation will be carried out and the anticipated timescales, and that he or she is to be suspended on full pay pending the outcome of the investigation.
- 8.7 This will be confirmed in writing in a letter to the employee with a copy for the workplace colleague or trade union representative.
- 8.8 During the period of suspension the employee is required to remain away from their workplace and not to contact work colleagues, other than with the Headteacher's agreement. A named colleague will be assigned to keep in touch with the employee. The employee must not discuss the case with colleagues and must be available to facilitate the investigation during the normal working day (generally 9.00am to 5.00pm) and attend pre-arranged meetings. Any holidays must be advised to the Headteacher or Investigating Officer.
- 8.9 The period of suspension will depend on the complexity of the investigation and may be determined by police enquiries or legal proceedings. It should not be unnecessarily protracted.
- 8.10 The employee's suspension should be reviewed periodically (normally every 4 weeks) to consider whether circumstances surrounding the suspension have changed. If circumstances require, the Headteacher will make a recommendation to the Governing Body that the suspension may be lifted.
- 8.11 Where it is not possible to review the suspension within the normal review period (e.g. where it falls within a school holiday period) a longer period for review should be set and the reason communicated in writing to the employee.
- 8.12 Where the reason(s) for suspension is (are) no longer considered to be relevant, and no new information has come to light to otherwise justify such a measure, the review should be brought forward and steps taken to reintegrate the employee back into the workplace as soon as is reasonably practical.

9 Definition and Separation of Roles

- 9.1 There are several distinct roles to be taken during disciplinary proceedings. It is essential they are clearly defined and that the person carrying out the role is clearly identified.
- 9.2 The Commissioning Officer, normally the Headteacher will decide whether an allegation is sufficiently serious to warrant a formal investigation under this procedure. If so, he/she will appoint an Investigating Officer, within 5 School days of the allegation, to carry out an investigation. If the Headteacher has had any prior involvement in the matter under investigation, including as a witness, the Hub Leader will assume the role of Commissioning Officer. If the Headteacher faces an allegation the CEO will assume the role of Commissioning Officer. Before embarking on the formal procedure advice should be sought from the Trust's HR advisors.
- 9.3 The Investigating Officer will normally be an appropriate member of the School's Senior Leadership Team or other Senior Leader from the Trust, who should be senior to the employee facing the concerns or allegations. Care must be taken to ensure that the Investigating Officer is able to carry out the investigation impartially. If the Headteacher conducts the investigation, then the role of Commissioning Officer will be assumed by the Chair of Governors and the hearing

conducted by a panel of other Governors. If appropriate, advice should be sought from the Trust's HR Advisors about appointing an Investigating officer from outside the School. The investigation should be completed within 20 School days. A revised timescale may be needed for complex situations or where circumstances determine the investigation will take longer.

- 9.4 When the investigation is complete, the Investigating Officer will submit a report to the Commissioning Officer presenting all the evidence, including signed statements from witnesses. Having seen the report, the Commissioning Officer will make a decision on whether there is a case to be considered at a disciplinary hearing.
- 9.5 The person or Panel who conducts the hearing will be either the Headteacher or a Panel of 3 Governors. Where dismissal is a possible outcome, the case will normally be heard by a Panel consisting of the Head Teacher and 2 members of the Local Governing Body or, if unavailable, other Governors from the Trust. Where the following statutory guidance applies, the case will be heard by a panel of 3 Governors/Hub leader/CEO:
- Where the Headteacher is unwilling to perform the function and was appointed to the Headship before 1st April 2004;
 - Where the Headteacher has been directly involved in the case, either as Investigating officer or witness;
 - Where the Headteacher is suspended or subject to disciplinary or capability procedures.

In all other cases the Headteacher, including where they fulfil the role of Commissioning Officer, may hear the case. Advice should be sought from the Trust's HR Advisors.

- 9.6 The presenting officer at the hearing will normally be the Commissioning Officer or the Investigating Officer. The Commissioning Officer may jointly present with the Investigating Officer. It is ultimately for the Commissioning Officer to determine which person will present the case on behalf of the School. If the Commissioning Office is hearing the case, the Investigating Officer will present the case.
- 9.7 At any disciplinary hearing, including the subsequent deliberations leading to a judgement, the Panel may be advised by a member of the Trust's HR Advisors. At any hearing where dismissal is to be considered, it is recommended that an HR advisor is invited to attend.
- 9.8 The employee should be offered the opportunity to be accompanied and supported, during the investigation and at each formal stage of the procedure where action may be taken (including appeal) by a workplace colleague or Professional Association/Trade Union representative and no one else. The colleague or representative will be able to ask general questions during the meeting.
- 9.9 Any fact, record or evidence which will be relied on in the Disciplinary Hearing must be released in good time for all parties to prepare.

10 Disciplinary Investigation

- 10.1 Alleged instances of misconduct should be acted upon promptly, particularly in cases of alleged gross misconduct.
- 10.2 Following a complaint or allegation, it may be clear that a formal investigation is required, but in some cases, a preliminary assessment of the available evidence will be appropriate to determine whether the allegation could have occurred. Once a decision has been made that a formal investigation is needed, the employee should be informed in writing of the nature of the complaint.
- 10.3 Where the complaint or allegation concerns the Headteacher, the Chair of Governors should inform the CEO who will seek advice from the Trust's HR advisor.
- 10.4 The Investigating Officer will investigate the matter thoroughly and impartially, which will include interviewing the employee. The employee will be informed that they have the right to be accompanied by his/her accredited Professional Association/Trade Union Representative, or work colleague and no one else. The employee will be given a copy of the record of their investigatory meeting to sign, and the provision to make any amendments. Amendments should be clearly stated on the record of the meeting. This document will form part of the evidence presented at any subsequent hearing.

- 10.5 The timing of such interviews and any notice given will take account of the availability of all the parties and will be determined by the Investigating Officer paying due regard to the circumstances of the case, the overall timetable for the investigation and the need not to unreasonably delay its completion. The unavailability of the employee's preferred companion at the interview will not normally be reason for the interview not taking place or being re-arranged.
- 10.6 A witness is someone who is not the subject of the allegation, but can provide an account of the alleged incident(s). During the investigation factual witness statements will be taken from all relevant witnesses, which must be signed and dated – wherever possible by the witness but always by the investigating officer. If allegations result in a disciplinary hearing, student names will be redacted. If on the rare occasion no signature can be obtained, the statement can still be presented. Only information directly relevant to the allegation(s) will be included. The questions that the witnesses were asked should be included in the statements to demonstrate that the witnesses have not been led by the interviewer. When statements are taken, the dates and any names quoted should be written out in full and the date of the interview should be included. Testimonials regarding an employee's character will not be accepted as witness statements, nor may witnesses be called to attend a hearing for this purpose.
- 10.7 Witnesses should be informed that:
- Any evidence provided may be included in their statement, so they should not disclose information that is irrelevant or prejudicial. He/she will be given one opportunity to review and amend their statement. If this involves substantial changes to the facts, both versions will be included in the investigation report
 - His/her statement may be presented at any subsequent disciplinary hearing and he/she may be called to give evidence at the hearing and to be cross examined by the employee or their representative
 - A copy of his/her statement will be provided to the employee once it has been signed and agreed if, following investigation, a formal disciplinary hearing is held.
- 10.8 It may not be necessary for a witness to be present at a disciplinary hearing to answer questions as the Disciplinary Panel may take the statements as read. Any witness to be called at a hearing must have submitted a written statement of their knowledge of the case in advance of the hearing, which has been exchanged with all parties.
- 10.9 Employees may be requested by the Commissioning Officer to attend a disciplinary hearing on behalf of the School.
- 10.10 If the employee wishes to call witnesses from the School, requests must be made in writing in good time through the Commissioning Officer. It is a decision for the employee whether or not to attend. The employee must provide the Commissioning Officer with the names of any witnesses they intend to call not later than 5 working days before the hearing.
- 10.11 Statements from students should be obtained as soon as possible after the alleged incident, when recollections are clearest and in order to minimise the opportunity for collusion and rumour. Guidance is included in **Appendix 3**.
- 10.12 Except in circumstances where there is potential Gross Misconduct (see 9.4), on receipt of the investigation report, the Commissioning Officer will consider whether there is a case to answer. If he/she concludes that the allegation is without foundation, no further formal action will be taken and the employee will be informed of this in writing. Management advice may be issued in such circumstances, which may include advice to reduce the risk of similar allegations being made in the future.
- 10.13 If the Commissioning Officer believes there is a case to answer, he/she will decide whether alternative action (for example, informal counselling/oral caution) is necessary or whether a formal Disciplinary Hearing is necessary.
- 10.14 A formal disciplinary penalty will only be imposed as a result of a disciplinary hearing where the case has been carefully investigated, all relevant facts considered and the allegations against the employee are founded (or founded on the balance of probability).

- 10.15 The possible outcomes available under this policy are:
- No further action
 - Oral Warning
 - First written warning
 - Final written warning
 - Dismissal with notice
 - Dismissal without notice (gross misconduct).

11 DISCIPLINARY HEARING

- 11.1 In the event of formal disciplinary action being taken the employee will be requested, in writing, to attend a disciplinary hearing. In most cases, **a minimum of 10 School days' notice** (see also section 1.9) will be given in order to allow the employee reasonable time to prepare their case (see section 11.2 below). In certain circumstances, this period can be curtailed if all parties agree at the outset and in the best interests of the employee. The employee will be advised in writing of the right to be represented by a workplace colleague or (recognised) trade union representative.
- 11.2 In exceptional circumstances, it may be appropriate to provide a longer period of notice for a disciplinary hearing. Such circumstances would include complex cases with extensive documentation and cases requiring the involvement of a senior regional trade union representative whose availability may be restricted.
- 11.3 The letter convening the hearing sent to the employee will include clear details of the allegation(s) and the possible outcomes (see section 10.15), when and where the hearing will be held and who will be attending (see Appendix 6 for standard letter). Copies of all documents to be referred to at the hearing and details of all witnesses to be presented at the hearing by the person conducting the hearing will also accompany the letter sent to the employee. The employee and/or the representative should provide names of witnesses and copies of any documents they intend to refer to at the hearing as soon as reasonably practicable but not less than 5 School days before the hearing.
- 11.4 Where a workplace colleague or trade union representative are not available on the proposed date, the employee can offer an alternative time and date so long as it is reasonable and is within 1 calendar week of the original scheduled date. Only 1 postponement will be allowed. (If this relates to school holidays, see Section 1.9)
- 11.5 During the course of the hearing, the employee's representative should be allowed to address the hearing to put and sum up the employee's case on their behalf and confer with the employee during the hearing. The representative does not, however, have the right to answer questions on behalf of the employee.
- 11.6 The disciplinary hearing, in most cases, will be conducted by the Headteacher. However, the panel may consist of the Headteacher and line manager for minor alleged disciplinary breaches, or members of the Governing Body for more serious allegations. The constitution of the panel will depend on the nature of the alleged misconduct.
- 11.7 Where the Headteacher is the Investigating Officer, or presenting the case against an employee, a panel of Governors will hear the case. A representative from the Trust's HR advisors is entitled to attend for the purpose of giving advice.
- 11.8 In the event that there is an indication that the employee will not attend the hearing, the Headteacher should contact their HR advisors for further advice. It may become necessary, to conduct the hearing in the employee's absence. This option would only apply as a last resort where all other alternative options of conducting the hearing had been exhausted.
- 11.9 Disciplinary Hearings will follow a set procedure to ensure fairness and consistency in process (see Appendix 7).
- 11.10 A written record of the proceedings must be taken. The note-taker may be the Clerk to the Governors or an employee at the School. The note-taker will make a record of the hearing but not of the confidential panel deliberations.

- 11.11 The School does not support the audio recording of disciplinary hearings unless there are exceptional circumstances for doing so. Where exceptional circumstances exist, the agreement of all parties must be obtained. Covert recording is considered gross misconduct.
- 11.12 Disciplinary letters will be handed personally to the employee wherever possible. However, where this is not practicable, the letter will be posted by **recorded delivery** to the staff member, at his/her home address, marked 'STRICTLY CONFIDENTIAL'.
- 11.13 Hard copy notes of the hearing will be retained securely and confidentially on the employee's personal file, for the specified time periods stated under each of the potential disciplinary sanctions outlined in Section 12. A copy may be made available to the employee on request.
- 11.12 The outcome of the hearing, including the reasons for the decision, will be confirmed to the employee in writing within **5 School days** of the hearing.

12 DISCIPLINARY SANCTIONS

Oral Warning

- 12.1 If the hearing decides that a formal verbal warning is appropriate, the employee will be informed and this will be confirmed in writing within 5 school days of the hearing, including details of the consequences of any further misconduct. It will also include the employee's right of appeal.

Written Warning

- 12.2 If an employee's conduct does not meet acceptable standards and informal discussions have not led to sufficient improvement or are not considered appropriate, a formal written warning may be issued. A first written warning will be placed on the employee's personnel file normally for a period of 6-12 months, unless the employee is notified to the contrary. The employee will be informed of the right of appeal.
- 12.3 The outcome letter will set out the improvement required and may recommend a meeting with the Headteacher as soon as possible after the hearing to discuss the outcome and recommendations and any support that may be appropriate. The letter will make it clear that failure to improve or further acts of misconduct may lead to further disciplinary action. (see Appendix 8)

Final Written warning

- 12.4 If the misconduct is sufficiently serious, or if further misconduct occurs, for which a written warning was issued, a final written warning may be issued. The employee will be advised of their right of appeal.
- 12.5 A final warning will normally remain active for a maximum of **12 months** after the hearing (with the exception of the circumstance where a final written warning is issued as an alternative to dismissal - see paragraph 13.1) and will normally be disregarded for future disciplinary purposes.
- 12.6 The outcome letter will set out the improvement required and may recommend a meeting with the Headteacher as soon as possible after the hearing to discuss the outcome and recommendations and any support that may be appropriate. The letter will make it clear that failure to improve or further acts of misconduct may lead to further disciplinary action. (see Appendix 9)
- 12.7 Depending on the nature of the case, the hearing may impose a final written warning that will remain in force for a period of greater than 1 year. This is particularly so where the imposition of a lesser penalty is an act of leniency (see Section 13 Other Options). In this event, the employee must be informed in writing how long the warning will remain active and the reason for the longer time period.

Dismissal

- 12.8 Taking into consideration the recommendation of the School Staffing (England) Regulations 2009 for the Headteacher to normally lead in all initial staff dismissal decisions, the Governing Body may delegate the responsibility for dismissal to the Headteacher. However, in such circumstances it is recommended that the Headteacher involves other Governors in this process. (If the dismissal relates to a Headteacher, see Section 15.7 Disciplinary Action Against a Headteacher.)

- 12.9 A representative from the Trust's HR Advisors is entitled to attend a Disciplinary Hearing to give advice where dismissal is the potential outcome. The Headteacher/Disciplinary Panel will need to consider any advice given prior to making a decision to dismiss. Dismissal should not take place before advice is sought from the HR Advisors.
- 12.10 Once the decision is taken to dismiss, the employee will be advised verbally at the hearing of the decision and of the right of appeal. This decision will be confirmed in writing to the employee, within 1 calendar week. This letter will state the date of dismissal (with or without notice) and will include the right of appeal.
- 12.11 In the case of gross misconduct, the employee will be summarily dismissed without notice. The date of dismissal will be the date of the Disciplinary Panel's decision to dismiss and pay will be stopped immediately. Should the dismissal be overturned at appeal, pay will be reinstated from the date of dismissal.
- 12.12 Should the employee choose not to stay to hear the outcome, the decision will only be given and confirmed in writing to the employee. A second copy of the letter will be enclosed for the employee to forward to his/her trade union representative.
- 12.13 Notice terminating employment should be issued by the employer following the dismissal decision. Where a contract is terminated without notice because of the conduct of the employee, the termination may be rescinded if an appeal is upheld.

13 OTHER OPTIONS

- 13.1 As an alternative to dismissal, there may be circumstances which warrant other penalties. These may include, where feasible, sanctions such as redeployment, transfer, change or removal of duties, or downgrading; all of which may have an impact on an individual's earnings. These sanctions may be implemented together with a final written warning. Advice will be sought from the School's HR Advisors. Such a final written warning will normally remain active for an extended period of greater than 12 months (as is the usual time span of a final written warning, referred to in paragraph 12.4) and will then be disregarded for future disciplinary purposes.
- 13.2 When action other than dismissal is taken, the employee will be warned that if further acts of misconduct occur whilst the warning is still "active" the Disciplinary Procedure may again be invoked.

14 APPEALS

- 14.1 Employees have the right to appeal against any disciplinary sanction. The appeal must be made in writing within 10 School days of receipt of the decision letter and must include the grounds for appeal. If the appeal is not received within 10 School days, with clear details of the grounds for the appeal, the appeal will be out of time.
- 14.2 The appellant must submit any documentation they wish to rely on for their appeal at least one week before the appeal meeting. No new evidence can be brought in at this time which had not previously been heard by the panel making the initial decision.
- 14.3 Appeals will be heard, where practicable, within **10 school days** of receipt of the appeal application.
- 14.4 The Appeal Panel will comprise 3 governors not previously involved in the disciplinary hearing. The Appeal Panel will only consider the grounds of the appeal, not the case as a whole. Having listened to the employee's appeal and supporting evidence, the panel may adjourn to investigate further the matters raised in order to determine their judgement on the appeal. This adjournment may span a couple of days if this is what is required by the panel, after which point the panel may reconvene the meeting or write to the employee with their decision and the reasons for it.
- 14.5 The Appeal Panel having considered the matter, may confirm the decision made, uphold the appeal, impose a lesser penalty or, where new evidence not available to the person(s) who made the original decision is presented, send the matter back to that person(s) for further consideration.

- 14.6 Should an appeal be upheld, reference to the disciplinary action will be removed immediately from the personal file of the employee, unless less serious disciplinary action is decided upon by the Appeal Panel.
- 14.7 The employee will be asked, at the end of the appeal hearing, whether s/he wished a copy of the letter to be sent to their trade union representative or workplace colleague. A copy should **not** be sent without the employee's permission.
- 14.8 The Appeal Panel may announce their decision verbally, but the outcome will be confirmed to the employee in writing within **10 School days** of the appeal. This decision is final.

15 OTHER RELATED MATTERS

POLICE INVESTIGATIONS

- 15.1 Where the misconduct is such that the police are also conducting a criminal investigation into the same allegations, there can be difficulty and delay in collecting information due to awaiting the outcome of the police investigation.
- 15.2 Disciplinary proceedings should not commence alongside police investigations until careful consideration in consultation with the police has been undertaken to ascertain the appropriateness of commencing internal disciplinary proceedings whilst police investigations are underway. Police investigations do not determine disciplinary issues which will include assessment of wider issues than whether a crime has been committed.
- 15.3 The circumstances of each case should be carefully considered prior to making the decision to pursue a disciplinary investigation where police investigations are underway. In making the decision how to proceed, the School must liaise with the police in order to identify whether an internal investigation can be carried out without the employee incriminating themselves in relation to the criminal proceedings. Considerations to be borne in mind when making this decision may include how long the police enquiries will take to conclude, the extent to which this may be accommodated by the School, the extent to which the employee can respond to the allegations without implicating their position in the criminal investigation and whether a sufficiently full investigation can be undertaken under the circumstances.
- 15.4 Statements made to the police by potential witnesses in the disciplinary proceedings, including the accused employee, can and should be made available for use in the disciplinary proceedings provided consent is given by the individual making the statement.

RESIGNATION and SETTLEMENT AGREEMENTS

- 15.5 Paragraphs 129, 130, 131 of "Keeping Children safe in education" (statutory guidance for schools and Schools July 2015) set out specific requirements in relation to handling allegations concerning the safety and welfare of children and young people. In summary these are:
- Allegations concerning the safety and welfare of children must be investigated and heard, **even if the employee has resigned**. The ex-employee will be given the same opportunity to participate in the investigation as he/she would have been as an employee, but the School must reach a conclusion whether or not the ex-employee co-operates with the process.
 - "Settlement Agreement" is a legal device to terminate the employee's contract in which an employer agrees not to pursue a disciplinary process and an employee agrees not to pursue any legal claim against the employer. Where there are allegations concerning the safety and welfare of children, a settlement agreement must not be used.

DISCIPLINARY ACTION AGAINST A HEADTEACHER

- 15.6 Where a Headteacher is the subject of disciplinary action, the Hub Leader will present the case against the Headteacher to the CEO, the Chair of Governors of the School and a member of the Trust Board.

- 15.7 Where the CEO believes the alleged misconduct of a Headteacher is so serious that it may constitute 'gross misconduct', he/she will take immediate advice from the Trust's HR advisors before suspending the Headteacher on full pay pending a formal investigation.
- 15.8 Appeals against the dismissal of a Headteacher will be heard by a panel of Trustees who have had no previous involvement in the case.

GRIEVANCE RAISED DURING THE DISCIPLINARY PROCESS

- 15.9 If in the course of a disciplinary process, a staff member raises a grievance that is related to the case, the Trust's Grievance Procedure may apply. The CEO/Headteacher/Governing Body as appropriate should consult the Trust's HR Advisors to consider whether or not to suspend the disciplinary procedure for a short period while consideration is given as to how the grievance is dealt with. Depending on the nature of the grievance, consideration may need to be given to who continues to deal with the disciplinary process.
- 15.10 The current ACAS code of practice gives the following guidance:
- Where an employee raises a grievance during a disciplinary process, the process may be temporarily suspended in order to deal with the grievance.
 - However, where the grievance is related to the disciplinary case, it is recommended that both issues are dealt with concurrently.

Reporting Misconduct to the Disclosure and Barring Service (DBS) or the National School for Teaching and Leadership (NCTL)

- 15.11 The Trustees/Governing Body have a duty, under the Safeguarding Vulnerable Groups Act 2006 to make a referral to the DBS when a person is dismissed from employment on grounds of misconduct relating to the safeguarding of children or Vulnerable Adults or resigns in circumstances which would have led to their dismissal if they had not resigned.
- 15.12 This referral will normally be made once the employer's procedures have been completed.
- 15.13 Referrals should be made promptly, using the DBS referral form.
- 15.14 Employers should also inform the staff member that their case is being reported to the DBS and advise them to retain any relevant paperwork which they may need if their case is considered further.
- 15.15 If the case does not relate to the safety and welfare of children, the Trustees/ Governing Body will pass the information on to the NCTL which will then consider the case under its disciplinary functions.
- 15.16 The NCTL deals with cases where issues concerning the safety or welfare of children do not arise and where a registered teacher is dismissed for misconduct or incompetence, or resigns in circumstances where dismissal was possible.
- 15.17 Current DfE publications include:
- Keeping children safe in education (July 2015).
 - Working together to safeguard children (March 2015)

As publications are revised periodically, Trustees/Headteachers/Governing Bodies are advised to check with the DfE for the most recent.

- 15.18 Further information can be obtained direct from:

Disclosure and Barring Service (www.gov.uk/government/organisations/disclosure-and-barring-service)

National School for Teaching and Leadership (www.gov.uk/government/organisations/national-school-for-teaching-and-leadership)

APPENDIX 1 Examples of Gross Misconduct

The following are examples and not intended to be exhaustive

Examples of Gross Misconduct

- Behaviour prejudicial to the good name or interests of the Trust/School or which may bring the employee or the Trust/School into disrepute
- Unauthorised and unreasonable absence from the place of work
- Wilful refusal to carry out a reasonable instruction or series of reasonable instructions
- Breach of confidentiality
- Breach of trust and confidence
- Theft, misuse or abuse of the property of the Trust/School or any other employee
- Assault upon another employee or person
- Being under the influence of excessive (in the employer's opinion) alcohol on the Trust/School's premises, in working time or at a Trust/School event
- Fraudulent practices
- Falsification of any Trust/School records
- Violent or threatening behaviour towards people or property on the Trust/School's premises or at a Trust/School related event
- Gross negligence or insubordination
- Covertly recording hearings, meetings or colleagues
- Smoking on the Trust/School's premises
- Serious breach of health and safety procedures or regulations
- Making any sexual or other inappropriate contact with any student whatever the age of the student
- Using, handling or possessing illegal drugs or substances irrespective of whether it is on the Trust's/School's premises, in working time, at a Trust/School event or whilst acting on behalf of the School
- Discrimination, harassment or victimisation on the grounds of protected characteristics as defined in the Equality Act of 2010
- Bullying, harassment or victimisation, whether verbal, written, photographic, pictorial or physical, whether inside or outside of the workplace.
- Inappropriate use of the Trust/School's Information Technology systems and passwords including email or internet abuse or misuse
- Using social media whether inside or outside of working time (e.g. blogs, Facebook, Twitter etc.) to post derogatory or offensive comments about the Trust/School, work colleagues, or third parties with which the Trust/School has an operational relationship
- Any misappropriation of files or documents belonging to the Trust/School of any kind or making copies, duplicates or excerpts of these for private or any other purposes unrelated to an employee's employment and without consent
- Material breach of contract of the Trust/School's policies and procedures
- Criminal offences, including those committed outside the workplace, which impact on the employee's ability or suitability to do his or her job.

APPENDIX 2 GUIDELINES FOR CONDUCTING A DISCIPLINARY INVESTIGATION

1 Aim of the investigation

Any matter which might give rise to disciplinary action against an employee must be fully investigated.

The aim of the investigation is to ascertain all the facts which might have a bearing on any subsequent disciplinary action. Disciplinary investigations, therefore, must be thorough - **but also carried out in a way which ensures that staff are treated fairly**. They take time and need to take precedence over other matters, since it is important to ascertain the facts as quickly as possible.

If the staff member is absent from work due to sickness, the Headteacher should contact the Trust's HR advisors at the earliest opportunity for further advice.

Where the concern is related to child protection, the Council's LADO must be notified and may carry out the investigation.

2 Who should conduct the initial investigation?

In most circumstances the line manager and/or senior employee will conduct an initial investigation (except where the line manager may form a part of the investigation and it would be more appropriate for another employee not related to the case to carry out the investigation) or the Headteacher (Deputy) may nominate another employee to undertake the role of Investigating Officer. In some circumstances the Headteacher (Deputy) may him/herself conduct the investigation, particularly where the allegations against the staff member are serious or the allegations are such that it may be necessary to suspend an employee.

Wherever possible, the Investigating Officer should be familiar with the field of work and should be of a status no lower than the staff member's line manager.

3 Planning the investigation

When a matter comes to your attention which might give rise to disciplinary action against an employee, you have to consider how you are going to conduct the investigation.

Although it is necessary to carry out investigations promptly (before memories fade), it is important to plan your investigation.

4 Identify the problem

Ask yourself the following questions in relation to the problem:

- WHAT?* What SPECIFICALLY is the problem? What are the details?
- WHERE?* Where did the problem arise?
- WHEN?* When did the problem arise or over what period?
- WHO?* Who are the people involved in the problem? Do you intend to involve them in the disciplinary process either as those subject to the process or as witnesses?
- HOW?* How is this a problem? What rule or standard has been broken?

From these questions others may arise:

- (a) Are there any complaints that need to be clarified? Wherever possible complaints should be set out in writing, signed and dated by the complainant. This should make it clear, beyond all doubt, what the complaint is all about;
- (b) What facts and further details need to be established? (It is important to ascertain all the facts prior to any formal hearing);
- (c) Who should be interviewed and what questions should be asked? (Statements should be obtained from any witnesses at the earliest opportunity);

- (d) Whether the complaint/allegation could be regarded as gross misconduct (in which case you must take prompt action to suspend the employee concerned);
- (e) Take advice from the Trust's HR advisors before proceeding further. (You must do this when the case involves a trade union representative/official or when the case appears to involve gross misconduct or a serious criminal offence.)

NOTE: All those who may have some relevant evidence to give should be interviewed irrespective of whether their evidence supports or contradicts the complaint/allegation. It is important to note that management has the right to interview as many potential witnesses as are considered necessary.

5 The investigatory interviews

Having prepared for the investigation, the Investigating Officer must conduct the interview(s) with the staff member(s) subject to the investigation.

6 Preparing a structured interview

Having given consideration to all of the above, the Investigating Officer needs to prepare for the investigatory interview(s). The following issues need to be considered:

- (a) How are you going to open and set the scene?
- (b) How are you going to explain your role and responsibility in relation to the Disciplinary Procedure?
- (c) How are you going to structure the interview?

7 Questioning

This is a crucial skill since it is only through intelligent questioning that you will get to the bottom of the situation. There are three different uses to which questions can be put:

- (a) Questioning for information
This clearly lies at the heart of the investigation.
- (b) Questioning for clarification
All interviews consist of a greater or lesser muddle of fact, opinion, hearsay, innuendo and so forth. With your objectives clearly established during preparation you will use questions to nail down ambiguity.
- (c) Questioning for commitment
There will be occasions when you have to check that what has been said is understood and accepted.

The interview needs to be detailed and accurate. Too frequently the written statements obtained during investigations contain very little detail. It is important, therefore, to question potential witnesses thoroughly. The answers to questions should always be probed, without leading, until you feel that the full picture has emerged.

8 Statements

In addition to the interview the Investigating Officer should obtain statements from the employee and witnesses concerned. This may be done via notes taken at the interview which are subsequently agreed, or through a written statement of the staff member/witnesses. The statement obtained must always be signed and dated by the staff member and a witness.

9 Recording

The Investigating Officer should take notes during the interview to ensure that a record is kept of all the evidence given.

The Investigating Officer should invite a third party to attend the interview as a witness and possibly to take notes of the discussion. In some cases, it would be recommended that this person is of the opposite sex to the Investigating Officer eg should an allegation of sexual misconduct arise.

10 Conducting the interview

At the beginning of the interview you should:

- (a) Confirm whether the individual is being accompanied/represented and, if so, by whom. If they are not accompanied/represented confirm that they do not wish to be;
- (b) Inform the employee that the meeting is investigatory and not a formal hearing;
- (c) Make the employee aware of the nature of the complaint made against him/her;
- (d) Consider and question any explanation put forward until you are satisfied that you have obtained all the facts;
- (e) Summarising: It is important at the end of the interview that you summarise the total situation prior to the adjournment. Your summary should reflect the key points of the interview:
 - (i) Key points of the case;
 - (ii) How these have changed during the interview;
 - (iii) Key points raised in reply;
 - (iv) Matters to be checked.

11 Interviewing witnesses

Arrangements should be made to interview all witnesses. The individuals should be notified of the purpose of the interview, and a date, time and place agreed. It is advisable that the individual's line manager is notified of the time and date of the interview so that arrangements for cover can be made where necessary. It is not normally necessary for other witnesses to be represented when being interviewed.

12 What if further allegations come to light?

During the course of a disciplinary investigation further allegations may arise against the employee(s) subject to investigation. Where this is the case the individual(s) must be notified in writing what the additional allegations are and given the opportunity to state their case before a decision is taken on whether the new allegations constitute an act of misconduct.

In certain circumstances allegations may be made against other individuals and it will therefore be necessary to extend the investigation to these employees. These individuals will also need to be notified in writing what allegations have been made against them and be given the opportunity to be accompanied at an investigatory interview.

13 Investigating Officer's Report

The IO's report should outline the following:

- The allegation
- The methodology for the investigation
- A summary of the evidence
- Indication of pertinent policies relating to the case

The IO's report should be factual and should not give the IO's opinions. Nor should the IO make a judgement on the case except to advise if there is a case to be heard.

Appendix 3 Statements from Students

- (i) This is a delicate area where the search for truth needs to be conducted in such a way as to avoid causing emotional harm to the student whose evidence is required.
- (ii) As a general principle, **children should not be interviewed more than once**. If a child has already been interviewed by the Police or by a social care agency in the course of an investigation into the same or similar allegations, the interview statements should be requested from the other agency and used in the School's investigation.
- (iii) Care needs to be taken to ensure that the student does not, as far as possible, feel intimidated by the process. This is particularly true for a student who might themselves have been the subject of the alleged misconduct. Where a formal investigation is underway, the parent/carer of the student should always be informed and invited to attend the interview with their child. The parent/carer should be told that an incident is being investigated and that the student's evidence may be used if it proves necessary to hold a formal disciplinary hearing. The student will not be required to attend the hearing to give evidence in person.

Statements must be taken as soon as possible after the alleged incident has occurred when recollections are likely to be clearest, and in order to minimise the opportunity for collusion and rumour.

- (iv) Where the Investigating Officer is not well-known to the student, for example, if they are from outside the School, consideration should be given to asking the School's Designated Safeguarding Lead (DSL) to carry out this part of the investigation. The student should feel able to speak frankly and, as far as is possible, in a situation that is not intimidating.
- (v) In any event, when interviewing students, the Investigating Officer should be accompanied by a second adult, whose role is to ensure that a complete and accurate record is taken.
- (vi) The Investigating Officer, taking into account the age and capabilities of the student, should ask the student to write down an account of what happened. Where this is not practicable, the Investigating Officer must write down the student's account and check carefully that they have recorded accurately what the student has said. It will be helpful for the Investigating Officer to prepare questions in advance.
- (vii) The Investigating Officer should seek clarification of what the student saw and experienced. Leading questions must be avoided, but it is important to record the student's account of what happened, where and when and who else might have been present during the incident under investigation.
- (viii) The student's account should, like any witness statement, indicate the time, date and place at which the account was written, the questions asked, plus the names and roles of all those present at the interview.
- (ix) Students/students under 18 must never attend a disciplinary hearing.

Appendix 4 Standard letter requesting attendance at an investigatory interview

insert date

Strictly Personal & Confidential

Dear

Investigatory Interview

I write to confirm that you are required to attend an investigatory interview with (insert name of nominated "Investigating Officer") at (insert venue) on (insert date) at (insert time).

The purpose of the interview is to consider the following:

(insert details).

You may be accompanied at the interview by a workplace colleague or your trade union representative. The unavailability of your preferred companion will not normally be a reason for the interview not proceeding or being re-arranged (*). There is no statutory right to be accompanied.

Yours sincerely

Headteacher

Copy to: Trade Union representative/workplace colleague (if applicable)

(*) See Section 1.9 Introduction which relates to arrangements concerning section holidays

Appendix 5 Standard letter suspending an employee from duty

insert date

Strictly Personal & Confidential

Dear

Suspension from Duty

I refer to our meeting today regarding your suspension from duty. At that meeting (insert names of those in attendance) were in attendance.

At the meeting you were informed that a number of allegations had been made against you. These were that:

(give an indication of the allegations).

I confirm that the allegations, if substantiated, would amount to gross misconduct in accordance with the Trust's Disciplinary Procedure and therefore you are suspended on full pay from your duties with effect from (insert date that suspension starts) pending further investigation.

Suspension from duty is the normal course of action in such circumstances. It allows time for a full investigation to take place; it is not a disciplinary sanction and does not, in any way, prejudice the outcome of the investigation.

You may be required to assist the School with its investigations or to attend a disciplinary hearing. During the period of your suspension you are required to remain away from your workplace, and not to contact any of your work colleagues except with my prior agreement, other than XXX who has been designated as your point of contact and liaison. The suspension will be kept under review.

I enclose a copy of the Trust's Disciplinary Procedure for your information.
Yours sincerely

Headteacher

Enc

Copies to: Trade union representative/workplace colleague (**with employee's permission**)
(insert name), HR advisors
(insert name), Chair of Governors

Appendix 6 Standard letter requesting attendance at a disciplinary hearing

insert date

Strictly Personal & Confidential

Dear

Disciplinary Hearing

I write to confirm that you are required to attend a disciplinary hearing to be held on (insert date) at (insert time) at (insert venue).

The purpose of the hearing is to consider the following complaints relating to:

(insert details).

You have the right to be accompanied at the hearing by your trade union representative or a workplace colleague. You, or your representative, have the right to make a written submission prior to the hearing and/or to make statements at the hearing. Any written statements or other documentation you wish to be considered at the hearing should be submitted to me by (insert date which should be not less than **5 School days** before the scheduled date of the hearing). You also have the right to call witnesses and to question witnesses called by management. Could you please let me have the names of any witnesses you propose to call in order that arrangements can be made for them to be released from their duties?

During the hearing the attached statements from (insert names of people who provided statements) will be referred to. In addition, (insert names of witnesses) will be called as witnesses.

Should the allegation/complaint be substantiated, the probable outcome of the hearing will be (insert, if appropriate, the probable disciplinary sanction. Note: in cases of gross misconduct, should the allegation/complaint be substantiated, the probable outcome of the hearing will be dismissal).

A copy of the procedure to be followed at the hearing is enclosed.

Yours sincerely

Headteacher

Enc

Copy to: Trade union representative/workplace colleague (**with employee's permission**)

Appendix 7 PROCEDURE TO BE FOLLOWED AT DISCIPLINARY HEARINGS

The Chair should introduce all those present to the employee and explain the role of each person at the hearing, including clarification of the role of both the accompanying person and any advisor to the panel and/or Headteacher/Investigating Officer.

The Chair should also remind those present of the purpose of the meeting and the procedure to be followed.

- The Investigating Officer/Headteacher will present his/her case in the presence of the employee concerned (and his/her representative). Witnesses may be called.
- The employee (or his/her representative) and the panel may ask questions of the Investigating Officer/Headteacher and of his/her witnesses.
- The Investigating Officer/Headteacher will be offered the opportunity to re-examine their witnesses.
- Each witness will leave the hearing after having given evidence. Once witnesses have been questioned, they may not be recalled.
- The employee and/or representative may ask questions of the Investigating Officer and then the Panel may ask questions.
- The employee (or his/her representative) will present his/her case in the presence of the Investigating Officer. Witnesses may be called.
- The Panel and the Investigating Officer/Headteacher may ask questions of the employee (or his/her representative) and of his/her witnesses.
- Each witness will leave the hearing after having given evidence. Once witnesses have been questioned, they may not be recalled.
- If, at this stage, the Panel decides that further evidence is required, the hearing may be adjourned at this stage for the evidence to be made available.
- The Investigating Officer/Headteacher will then sum up his/her case. No new evidence may be introduced at this stage.
- The employee (or his/her representative) will sum up his/her case. No new evidence may be introduced at this stage.
- The Investigating Officer/Headteacher, the employee (and his/her representative) will then withdraw.
- The Panel, together with the HR Advisor, will deliberate in private. Either party may be asked to return to clarify a point of uncertainty. If this occurs, then both parties shall be recalled together.
- The Panel will reach a conclusion on:
 - Whether on the balance of probabilities the allegation(s) is (are) proven
 - What sanction, if any, is appropriate bearing in mind this will be limited by the possible outcomes listed in the hearing letter.

The decision is normally conveyed orally by the Chair, in the presence of both parties and will be confirmed in writing within 5 School days.

The Panel may, particularly after a lengthy hearing, adjourn and reconvene at another time to consider its decision.

Appendix 8 Standard letter confirming a written warning

insert date

Strictly Personal & Confidential

Dear

Written Warning

I refer to the Disciplinary Hearing which took place on (insert date of hearing) in accordance with the Trust's Disciplinary Procedure. At that meeting (insert names of people in attendance) were in attendance.

At the meeting it was established that (insert details).

I confirm that you were issued with a formal written warning as to your future conduct. This formal written warning will remain 'active' for a period of 12 months from the date of the hearing after which it will be disregarded. You were informed that any recurrence of the following conduct (insert details of the conduct which led to the disciplinary sanction being imposed) will lead to further disciplinary action.

I enclose a copy of the Trust's Disciplinary Procedure, and draw your attention to your right of appeal. If you wish to appeal against this formal written warning you must do so, in writing, within **10 School days** of receipt of this letter.

Yours sincerely

Headteacher

Enc

Copies to: Trade union representative/workplace colleague (**with employee's permission**)
(insert name), HR Advisors

Appendix 9 Standard letter confirming a final written warning

insert date

Strictly Personal & Confidential

Dear

Final Written Warning

I refer to the Disciplinary Hearing which took place on (insert date of hearing) in accordance with the Trust's Disciplinary Procedure. At that meeting (insert names of people in attendance) were in attendance.

At the meeting it was established that (insert details).

This letter constitutes a final written warning as to your future conduct. This final written warning will remain 'active' for a period of 12 months (or more if act of leniency from a potential dismissal) from the date of the hearing. You were informed that any recurrence of this conduct (insert details of the conduct which led to the disciplinary sanction being imposed) will lead to further disciplinary action which may lead to your dismissal.

I enclose a copy of the Trust's Disciplinary Procedure, and draw your attention to your right of appeal. If you wish to appeal against this final written warning you must do so, in writing, within **10 School days** of receipt of this letter.

Yours sincerely

Headteacher

Enc

Copies to: Trade union representative/workplace colleague (**with employee's permission**)
(insert name), HR Advisors

Appendix 10 Dismissal letter

insert date

RECORDED DELIVERY

Strictly Personal & Confidential

Dear

I refer to the hearing which took place on (insert date of hearing) in accordance with the Trust's Disciplinary Procedure. At that meeting (insert names of people in attendance) were in attendance.

At the meeting it was established that (insert details).

I have to inform you that, having given careful consideration to the matter, I have accepted the Disciplinary Panel's recommendation that you be dismissed from the service of (insert name of) School with effect from (insert date).

I enclose a copy of the Trust's Disciplinary Procedure and draw your attention to your right of appeal against dismissal to the Appeals Panel.

If you do wish to appeal against this dismissal you must do so, in writing, within **10 School days** of receipt of this letter.

Yours sincerely

Chair of Governors

Enc

Copies to: Trade Union representative/workplace colleague (**with employee's permission**)
(insert name), HR Advisors

Appendix 11 PROCEDURE TO BE FOLLOWED AT APPEAL HEARINGS

The role of the Appeals Panel is to consider the grounds of appeal as outlined in writing prior to the meeting by the appellant. It is not a re-hearing of the whole case. The panel must assure itself that the grounds of appeal are pertinent, that the appellant had a fair hearing and that the judgement was within the bounds of reasonability.

- The appellant (or his/her representative) will present his/her case to the panel and may call witnesses if pertinent to the appeal.
- The Appeals Panel will have the opportunity to ask questions of the appellant (or his/her representatives) and of his/her witnesses.
- Each witness will leave the hearing after having given evidence. Once witnesses have been questioned, they may not be recalled.
- The panel may request that the Headteacher / Investigating Officer be available to speak at the hearing if required to clarify / address matters raised in the appeal.
- The Appeals Panel may adjourn to consider the evidence presented or to undertake further investigation.
- The Appeals Panel will outline the reasons for the decision to the parties either in writing or through reconvening the hearing.

APPENDIX 12 Letter following Appeal

insert date

RECORDED DELIVERY

Strictly Personal & Confidential

Dear

I refer to the Appeal hearing which took place on (insert date of hearing) in accordance with (insert name of) Trust's Disciplinary Procedure. At that meeting (insert names of people in attendance) were in attendance.

Following careful consideration of all the evidence, the Appeals Panel upholds the decision reached at the Disciplinary Hearing held on (insert date).

It is therefore my duty to inform you that you are dismissed from the services of (insert name of) School and your last day of employment will be (insert date).

Yours sincerely

Chair of Governing Body

Copies to: Trade Union representative/workplace colleague (**with employee's permission**)
(insert name), HR Advisors

APPENDIX 13 Disciplinary Procedure Flowchart

