



MARISH

Academy Trust



Disciplinary Policy and Procedure

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This policy will be subject to ongoing review and may be amended prior to the scheduled date of next review in order to reflect changes in legislation, where appropriate.

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1. Scope

The procedure applies to all employees employed in schools. The procedure is not to be used to deal with matters of unsatisfactory performance due to lack of capability and absence due to ill health. Separate procedures exist to deal with matters of this nature.

In this procedure, where the Executive Headteacher is the subject of disciplinary proceedings all reference to Executive Headteacher in this document should be replaced with Chair of Governors.

The recognised trade unions have been consulted.

2. Policy

This policy is to help and encourage all employees to achieve and maintain the desired standards of conduct and provides a fair and consistent method of dealing with alleged failure to observe those standards as well as helping employees recognise and resolve any shortfall. It encompasses the following principles:

- No formal disciplinary action will be taken against an employee until the case has been fully investigated and a disciplinary hearing has taken place.
- The employee will be advised of the nature of the allegation and given the opportunity to prepare and present their case before any decision is made.
- The employee will have the right to be accompanied by a trade union representative, or a work colleague, at any stage of the disciplinary process. (See Annex A for details about the role of a companion). Where an employee is not a member of a trade union and is unable to find suitable work colleague to support them, they can make a request to the school to bring a friend.
- No employee will be dismissed for a first breach of discipline except in cases of gross misconduct when the sanction may be dismissal without paid notice.
- Any level of sanction can be applied which is deemed appropriate for the nature of the misconduct.
- An employee will have the right to appeal against any disciplinary action taken or sanction applied.
- Where disciplinary action is being considered against an employee who is a trade union representative, this procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement.
- Wherever possible, meetings should be held during the employee's normal working time unless otherwise agreed with the employee
- The timeframes specified within the Procedure are the minimum. It is recognised that at times it may be necessary to extend the specified timeframes, where this is the case the extension must be reasonable and the employee must be notified.

3. Local Authority's entitlement to give advice (for Community, Voluntary Controlled, Community Special and Maintained Nursery Schools)

The Local Authority has a statutory entitlement to send a representative to attend all proceedings relating to the dismissal of any teacher (including the headteacher and deputy headteacher) and offer advice. Any advice offered by the Local Authority representative at these proceedings must be considered when reaching a decision. All advice offered by the Local Authority representative, and decisions reached in the light of that advice should be fully documented.

4 Authority to take Disciplinary Action

Governing Bodies are responsible for establishing procedures for the regulation of conduct and discipline of staff.

The School Staffing (England) Regulations 2009 allows the Governing Body to delegate all its functions relating to staff employment in schools, including dealing with disciplinary matters and taking initial dismissal decisions, to the Headteacher. Therefore where the Headteacher has delegated responsibility, it is expected that the Headteacher will conduct disciplinary hearings with support from an HR Adviser. In cases where the potential outcome of a disciplinary hearing is likely to be dismissal, it is recommended that the Headteacher has two other governors, in addition to the Headteacher, to form a Disciplinary Hearing Panel to hear the case. An example of where this could be the case is where the allegation constitutes gross misconduct or where the employee has an unspent final written warning on their record.

Where the Headteacher is not considered to be suitable to hear the case, either because they have previously been involved in the case e.g., as part of the investigation, or they are the investigating officer, or could not be seen to be impartial, or for any other valid reason, the case should be considered by a Disciplinary Hearing Panel consisting of 3 other governors.

Where the Headteacher is the subject of disciplinary action, the matter will be considered by a Disciplinary Hearing Panel of 3 governors at any formal disciplinary hearing, with a representative of the Local Authority's representative present to give advice if relevant (see Section 3).

Where the Governing Body has not delegated responsibility for staffing matters to the Headteacher, any formal disciplinary hearings will be conducted by a Disciplinary Hearing Panel of 3 governors. All appeals against disciplinary sanctions will be heard by an Appeal Hearing Panel consisting of 3 governors.

The Disciplinary and Appeal Hearing Panels should consist of governors who have not previously been involved in the case, and who are not staff governors and, ideally, not parent governors.

It is strongly recommended that a representative from Schools HR is present in an advisory capacity to the Headteacher/Disciplinary Hearing Panel/Appeal Hearing Panel at any Disciplinary and Appeal Hearings.

5 Investigation and Suspension

When a disciplinary matter arises it is important to carry out an investigation to establish the facts as soon as possible (See Annex A for guidance on conducting an investigation). During the investigation it may be deemed necessary to suspend the employee (See Annex A for guidance on suspension).

6 Stage 1: Informal Stage – Informal Management Meeting

Issues related to standards of conduct should be dealt with at the earliest opportunity.

Some issues can be dealt with informally and appropriate support should be given to achieve the required result. The employee should be advised that informal efforts to resolve the issue are not part of the formal disciplinary process. The employee will be given a reasonable opportunity to achieve the required standard and informed that in the event of insufficient improvement formal disciplinary action will be taken.

A record of the informal meeting will not be held on the employee's personal file, but will be retained by the manager for a period of 6 months and can be referred to should similar allegation of misconduct arises within this period of time. The employee should be given the opportunity to make comments on any letter/record and this will be kept with the manager's records.

If a pattern emerges that the conduct remains satisfactory during the period of 6 months but declines soon after, then the line manager can proceed to deal with the matter under the Formal Stage.

7 Stage 2: Formal Stage – Disciplinary Hearing

If the investigation report recommends that the employee has a case to answer and for the matter to be considered formally at a Disciplinary Hearing, the Headteacher should convene a formal Disciplinary Hearing as soon as possible.

Within Stage 2 – where the case is being heard by a Disciplinary Hearing Panel, all reference to Headteacher should be replaced with Disciplinary Hearing Panel. The Disciplinary Hearing Panel should select a Chairperson to Chair the Hearing.

7.1 Prior to the Disciplinary Hearing

The employee must be given 10 working days' notice of the disciplinary hearing in writing (see Appendix 11). This notification will include:

- The date, time and place of the hearing
- The names of those to be present at the hearing
- The allegation(s) and whether if, proven, they constitute misconduct or gross misconduct and possible sanctions
- The employee's right to produce information and the date by which this must be received
- The employee's right to call witnesses and the date by which they must notify the school of the names of the witnesses

- The employee's right to be accompanied by a trade union representative, or a work colleague, Copies of the evidence produced to support the case against the employee and this will include the investigation report and witness statements.
- Copy of the School's Disciplinary Procedure
- The employee's responsibility for communicating the details of the disciplinary hearing to their representative and providing them with a copy of the paperwork.

A copy of the information should also be sent to the designated HR Adviser at the same time or as soon as possible thereafter.

The employee must submit any information they want to be considered at the hearing in support of their case, including the names of witnesses they wish to call and their witness statements, no later than **3 working days** before the date of the hearing.

A copy of the information will be sent to the designated HR Adviser.

If new evidence is presented after the given timeframe, the Headteacher will determine whether or not the new evidence will be considered as part of the hearing

7.2 Attendance at the Disciplinary Hearing

The employee should make every effort to attend the Hearing.

If the employee is unable to attend due to ill-health, the school may wish to seek advice from occupational health about the employee's fitness to attend the hearing. Where the medical advice remains that the employee is unfit to attend the hearing it would be reasonable to hold the hearing in the employee's absence and a decision reached on the evidence available. The employee should be informed where this is the case. Schools may wish to seek advice from Schools HR.

If the employee's chosen companion is not available to attend on the date and time proposed for the hearing by the school, the school must postpone the hearing to a date and time proposed by the employee or their companion, provided that the alternative date and time is both reasonable and not more than **5 working days** after the date originally proposed. Any extension of this timeframe will be at the discretion of the Headteacher.

7.3 Persons present at the Disciplinary Hearing

- Headteacher (or in the case of a Disciplinary Hearing Panel, 3 governors, and this may include the Headteacher if they have not been otherwise involved in the case)
- HR Representative (in an advisory capacity to the Headteacher/Disciplinary Hearing Panel)
- Investigating Officer (to present the management case)
- Employee (subject of the disciplinary case)
- Employee's representative (this can be a trade union representative or a work colleague)
- Note Taker (this can be the Clerk to the Governing Body or another suitable person from the school)
- Witnesses, if required, (attend one at a time and be present only for the duration of their evidence)

7.4 At the Disciplinary Hearing

At the Disciplinary Hearing, the employee and their representative are entitled to be present at all times except when any matter falls solely for the Headteacher to consider with advice from the HR Adviser.

Witnesses should attend in person. Witnesses should appear one at a time and should only be present whilst they are giving evidence or are being questioned. Where a witness is unable to attend, the Headteacher will take into consideration their statement and may reduce the weighting given to the statement.

The Headteacher explains the procedure to be followed (See Appendix 6 for guidance), states the allegation(s) against the employee and asks whether the employee admits or denies the allegation(s).

If the employee admits to the allegations:

1. The Headteacher asks the employee if they wish to offer an explanation for the allegation(s) against them and to present any mitigating circumstances.
2. The Headteacher asks the Investigating Officer if they have any comments to make on the explanation or mitigating circumstances offered by the employee.
3. The Headteacher can ask questions of the employee concerning the employee's explanation/mitigation.
4. The Headteacher asks both parties to withdraw whilst the Headteacher, advised by an HR Adviser, reaches a decision on the evidence presented.

If the employee denies some or all of the allegations:

The Hearing should proceed in the following manner:

Management's Case

5. The Headteacher asks the Investigating Officer to present the management case against the employee and call any witnesses.
6. The Headteacher invites the employee and employee's representative to ask any questions of the Investigating Officer and any witnesses called.
7. The Headteacher may ask any questions of the Investigating Officer and any witnesses called.

Employee's Case

8. The Headteacher asks the employee to present the employee's case and call any witnesses. At times an employee may ask their representative to present the employee's case. This should be allowed, but the representative will not be able to answer questions on behalf of the employee.
9. The Headteacher invites the Investigating Officer to ask any questions of the employee and any witnesses called.
10. The Headteacher may ask any questions of the employee and any witnesses called.

Summing Up

11. The Headteacher invites both parties to sum up their case in the order in which they were presented. The Headteacher may wish to adjourn the Hearing briefly, if necessary, to allow both parties to prepare their summations.
12. During the summing up no new evidence should be introduced by either party.
13. Following the summations, the Headteacher invites both parties to withdraw whilst the Headteacher, advised by an HR Adviser, reaches a decision.

The Decision

The Headteacher considers the evidence presented seeking advice from the HR Adviser.

If there is any uncertainty about the information presented, or the discussion raises the need for further questioning of either party's evidence, the Headteacher should invite both parties to return so that further clarification can be sought from either or both parties.

If the Headteacher wishes to question either party on matters which have not already been raised, or new evidence emerges at this stage, either party may request an adjournment to carry out further investigation before responding. The Headteacher will make a decision on any such requests including the length of any adjournment.

On reaching a decision about whether the allegation has been upheld or not, both parties will be invited to return to the hearing.

Where the allegation is upheld, the employee will be informed of this, and before deciding the level of sanction, the employee will be offered a short adjournment to prepare any mitigation that they would like taken into account.

Both parties will be invited to return to the hearing and the employee will be asked to provide any mitigation that they would like to be considered before a decision is taken on the sanction to be applied.

A short adjournment will be called during which the Headteacher, in deciding the level of sanction, will consider the nature and level of the current offence in relation to the employee's job, any mitigation offered by the employee, and the employee's current disciplinary record.

Both parties will be invited to return to the hearing and the Headteacher will inform them:

- The precise nature of the misconduct; and whether it is misconduct or gross misconduct
- Any mitigating circumstances which have been considered;
- What disciplinary action (See Section 8), is being taken and the length of the time for which the disciplinary action is valid, or in the event of dismissal whether it will be with or without notice (the latter will only be in cases of gross misconduct)
- The consequences of further misconduct within the set period of the disciplinary sanction issued. For instance that it may result in dismissal or some other contractual penalty such as demotion or loss of seniority.
- Their right of appeal and the appropriate timescale within which the employee needs to submit their appeal

Where the allegation is judged not proven all reference to the matter will be removed from the employee's file.

The outcome of the Hearing should be confirmed in writing within 5 working days of the date of the Hearing.

At times, due to the complex nature of the case and the extent of the evidence presented, it may not always be possible for the Headteacher to reach a decision within the timeframes set for the day. At times the Hearing itself may continue late into the day and it may be considered reasonable to allow the employee and their representative to go home. In these circumstances, the employee will be notified of the decision and the corresponding reasons in writing within 5 working days of the date of the hearing

8. Stage 3: Appeal Hearing

An employee has the right to appeal against any formal disciplinary action. The appeal is against the decision reached at the Disciplinary Hearing and should not be a re-hearing of the case.

If the employee wishes to appeal against the disciplinary action imposed, they must confirm this in writing to the Chair of Governors, within 10 working days of the written notification of the disciplinary action, stating their grounds and reasons for appeal which can be based on any of the following:

- The severity of the disciplinary action is considered too harsh in relation to the misconduct
- The findings of the disciplinary hearing are disputed on a point of fact that may have influenced the outcome
- There was a failure to adhere to agreed procedure that may have affected the outcome
- New evidence

Where no appeal is lodged within the given timescales, the matter will be closed.

The Chair of Governors/Clerk to the Governing Body will arrange for an Appeal Hearing to be convened within 6 working weeks of receiving the employee's letter.

The Executive Headteacher, and who for the purposes of this procedure will be known as 'The Presenting Officer', will be required to present the management's case at the appeal hearing. They will also provide a written management case statement which should include the rationale for the decision reached at the Disciplinary Hearing and address any other points raised by the employee in their letter of appeal.

8.1 Prior to the Appeal Hearing

The employee must be given no less than 10 working days' notice of the Appeal Hearing in writing. The written notification will include:

- The date, time and place of the hearing
- The names of those to be present at the hearing
- The employee's right to call witnesses where the grounds of appeal include new evidence
- The employee's right to be accompanied by a trade union representative or a work colleague, and their responsibility to notify their chosen representative of the details of the appeal hearing
- Documentation to be considered at the hearing, including that from the Disciplinary Hearing and including the management case statement, and the employee's responsibility to provide a copy to their chosen representative
- Possible outcomes of the appeal hearing
- Copy of the School's Disciplinary Procedure

A copy of the same must also be sent out to the Appeal Hearing Panel, the Presenting Officer and the designated HR Adviser.

If the employee's chosen companion is not available to attend on the date and time proposed for the hearing by the school, the school must postpone the hearing to a date and time proposed by the employee or their companion, provided that the alternative date and time is both reasonable and not more than 5 working days after the date originally proposed. Any extension of this timeframe will be at the discretion of the Appeal Hearing Panel.

In the event that the employee is unable to attend due to ill-health the school may wish to consider a

postponement on the same terms as above. However, if the employee is unable to attend on the rescheduled date and time, the hearing will proceed in their absence. The employee should be informed where this is the case.

If the employee considers there is new information that has come to light which they have not included in their initial written appeal statement, they should submit this information no later than 3 working days before the hearing.

8.2 At the Appeal Hearing

At the Appeal Hearing the same format will be followed as for the Disciplinary Hearing but with the order of the presentations being reversed i.e. the employee or their representative will present their case first giving their reasons for appealing.

Where the appeal is on the grounds of new evidence the Appeal Hearing Panel may consider adjourning the Hearing if it is determined that further investigation is required in relation to the new evidence. Where this is the case the most appropriate person to carry out this additional investigation would be the Executive Headteacher in their role as Presenting Officer. The Appeal Hearing will be reconvened where the findings of the investigation will be presented and considered. The employee will be given **10 working days'** notice of the reconvened Appeal Hearing.

The Decision

The same principles in terms of the process apply as for the Disciplinary Hearing. Once the Appeal Hearing Panel has reached a decision, both parties should be recalled and informed of the decision by the Chairperson.

The Appeal Hearing Panel may take one of the following decisions at the conclusion of the appeal hearing:

- Uphold the appeal and dismiss any disciplinary action
- Substitute a lesser level of disciplinary action
- Dismiss the appeal and uphold the disciplinary action

If the appeal is upheld then all records relating to the disciplinary action must be removed from the employee's file. The decision of the Appeal Hearing Panel is final and should be confirmed in writing to the employee within **5 working days** of the Appeal Hearing. (See Appendix 14)

9 Disciplinary Sanctions

There are three levels of sanctions which can be applied depending on the nature and severity of the misconduct.

- **Written Warning**
- **Final Written Warning**
- **Dismissal***

*NB: Dismissal will generally be with notice and will be applied from the date of the written notification of the outcome of the Disciplinary Hearing. Dismissal without notice should only occur where gross misconduct constituting a breach of contract has been established, and the presence of the employee can no longer be tolerated. In this case, the dismissal is with immediate effect i.e., from the date the decision is reached. If the employee appeals successfully against a dismissal decision then the notice of dismissal shall be withdrawn or, if the notice period has already been exhausted or the employee had been dismissed without notice, the employee will be re-instated with effect from the date that their employment had ended.

9.1 Duration of Warnings

- **Written Warning to remain on the employee's file for 12 months**
- **Final Written Warning to remain on the employee's file for 2 years**

Provided the employee's conduct has remained satisfactory throughout the duration of the warning period, all reference to it should be removed from the employee's file.

The ACAS Guidelines state that where a pattern emerges of lapses in conduct soon after the expiry of warnings and there is evidence of abuse, the employee's disciplinary record should be borne in mind in deciding how long any current warning should last.

Exceptionally, there may be circumstances where the misconduct is so serious, verging on gross misconduct, that it cannot be disregarded for future disciplinary purposes. In such cases, the final written warning may never be removed and any recurrence will lead to dismissal.

Sanctions relating to allegations of child protection should remain on the employee's file until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

9.2 Other Sanctions

Other action may also be used in conjunction with formal warnings. However, in all cases advice must be taken from Schools HR. The following may be considered:

- **Transfer to another post**
- **Demotion with or without protection of salary**

10 Referral to external professional agencies (Disclosure and Barring Service/Teaching Regulation Agency)

Where an employee has been dismissed for allegations relating to safeguarding/child protection, the school has a legal duty to make a referral to the Disclosure and Barring Service. If the employee is a teacher, a referral must also be made to the Teaching Regulation Agency. Guidance on making a referral to the

Disclosure and Barring Service can be found at <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs> Guidance on make a referral to the Teaching Regulation Agency can be found at

<https://www.gov.uk/guidance/teacher-misconduct-referring-a-case>

In addition, if an employee who is a teacher, has been dismissed for allegations relating to serious professional misconduct (which has the effect of bringing the teaching profession into disrepute) must also be referred to the Teaching Regulation Agency.

Please also see Section 3 of Annex A within this procedure for guidance where a referral to DBS may be appropriate at the suspension stage.

In all other cases it would be reasonable to make the referral when the disciplinary process has been concluded.

ADDITIONAL GUIDANCE

1. INVESTIGATION

When a matter of concern regarding conduct arises, it is important that a thorough investigation takes place to establish the facts as soon as possible. It is important to be able to demonstrate that any subsequent disciplinary action is based on reasonable attempts to investigate all the circumstances surrounding the alleged incident.

The headteacher must consider the appropriate person to conduct the investigation having regard to the seniority status of the accused employee and the nature of the allegation. The Investigating Officer should be neutral and independent and not otherwise involved in deciding the outcome of the case. It is strongly recommended that the headteacher should not, unless absolutely unavoidable, carry out investigations as this will automatically exclude them, on grounds of impartiality and objectivity, from taking part in any subsequent disciplinary hearing.

Once an Investigating Officer has been appointed, they must be clear from the outset about:

- The reason for the investigation
- The precise issues to be investigated
- How the investigation will be conducted
- The proposed time frame
- All key and relevant evidence to be gathered

The extent of the investigation will depend on the nature and seriousness of the alleged misconduct. For example, in the case of poor timekeeping, a meeting with the employee and a record of attendance, and previous informal efforts to deal with the matter may be the only form of investigation required prior to a decision on whether or not to convene a formal disciplinary hearing. In other cases the alleged misconduct may be of a more serious nature and will require a more detailed investigation.

It is important to identify the types of evidence needed and this will be determined by the nature of the alleged misconduct. The investigation will usually require the person making the allegation and any witnesses to the alleged incident to be interviewed as soon as possible in order to obtain as accurate an account of events as possible. However there may be other forms of evidence that may be relevant e.g., documentary evidence, CCTV footage, computer records. Care should be taken to ensure such evidence is obtained as a priority as it may be destroyed before being obtained.

Often, further facts will come to light during the investigation. This may present the need for the Investigating Officer to carry out further investigation and may involve interviewing other witnesses or revisiting certain areas of the investigation with the witnesses or the employee for clarification or fresh evidence.

During any fact-finding interviews, care should be taken to adopt a probative approach and to avoid using leading questions. Any questions should encourage people to recall their version of events in their own words. Witnesses must be advised of the purpose and confidential nature of the interview and that they must not discuss the investigation with people outside of it. Witnesses must be informed that they may be required to give evidence at any subsequent disciplinary hearing. Reasonable notice should be given of

the interview.

At times a witness may be reluctant to present evidence or will only do so if they are given an assurance of anonymity. In such circumstances, the Investigating Officer should try and establish the reasons for such reluctance and ensure the witnesses are aware of their obligation to help assist with establishing the facts. It would also be reasonable to investigate the motivation of any witness and why there is any reason for anonymity.

No guarantee of complete anonymity can be given to witnesses as there is always a risk that if the matter becomes subject to legal proceedings, they may be required to present evidence.

Where a child is a witness to an alleged incident, it is the responsibility of the headteacher, in conjunction with the parents/carer, to determine whether they may be interviewed or questioned. Any such interview will only be carried out following advice from the Local Authority Designated Officer for Child Protection (LADO). However, this does not preclude the headteacher asking the child to give a written account of events.

The employee should be notified of the allegation(s) and asked to attend a meeting with the Investigating Officer (see Appendix 7). They should be informed that the meeting is not a disciplinary hearing but an opportunity for them to respond to the allegation(s) and to assist in establishing the facts. The employee should be given reasonable notice of the meeting and advised that they may be accompanied by a trade union representative or a work colleague. At the meeting, any explanations put forward by the employee, including whether there are any special circumstances to be taken into account must be considered and investigated.

If the employee unreasonably refuses to participate in the investigatory meeting, they should be informed that a decision will be based on the remaining evidence gathered.

If the employee is unable to attend due to ill-health, the school should seek advice from occupational health about the employee's fitness to attend the meeting. Where medical advice suggests the employee is unfit to attend the meeting, consideration can be given to alternatives to a meeting. For example the employee can be asked to submit a written statement or provide a written response to questions from the investigating officer.

All meetings held with the employee and witnesses must be recorded. The Investigating Officer needs to plan how the meetings will be recorded; they can take notes of the meeting themselves, have a notetaker, use a recording device with the consent of the interviewee and/or their representative, notes will be transcribed/typed up. The notes should record:

- The date and place of interview
- Names of all people present
- An accurate record of the interview (the notes taken do not need to record every word that is said but they should capture the key points of any discussion)
- Any refusal to answer a question
- The start and finish times, and details of any adjournments

Notes from all interviews should be typed up to ensure a legible copy. The employee and any witnesses interviewed as part of the investigation should be given a copy of their statement to check that they agree it is accurate. This should be done as soon as possible after the meeting. Once the interviewee has

checked the document they should sign and date the statement confirming it is an accurate reflection of the conversation. Where the interviewee considers there are inaccuracies in the record, they should submit their amendments to the Investigating Officer for consideration. If the Investigating Officer agrees with the amendments, they should make the amendments to the statement and the revised statement should be sent to the person. If the Investigating Officer disagrees with the amendments, then the copy received from the person should be appended to the original statement.

At the end of the investigation, it may be appropriate to have a further meeting with the employee to obtain a further statement on presentation of the facts of the investigation. Where discussion with the employee results in further information being obtained which needs investigating, the investigation must continue for the information to be explored. It may be necessary to reconvene the meeting with the employee following the investigation of the information.

Once the investigation has been concluded, the Investigating Officer will submit their findings in the form of an investigation report which should clearly identify options for action by the Headteacher and/or Governing Body. If the recommendation is to proceed to a formal disciplinary hearing, the Investigating Officer will be required to present the case at any such hearing. Where there is no case to answer all reference to the alleged misconduct will be removed from the employee's file.

2. SAFEGUARDING/ CHILD PROTECTION RELATED INVESTIGATION

Allegations relating to child protection against employees should be dealt with in accordance with the Dealing with Allegations of Abuse against Teacher and other Staff procedure.

3. SUSPENSION

In exceptional circumstances it may be deemed necessary to suspend the employee from work during an investigation. Suspension should be for the minimum amount of time possible in all circumstances and will be with full contractual pay. Suspension has no implication of guilt.

The headteacher and the governing body have authority to suspend an employee but only the governing body has the authority to end a suspension.

Suspension might be considered appropriate in the following circumstances:

- The allegation being investigated (if proven) would constitute gross misconduct
- The employee's presence at work might hinder or influence the disciplinary investigation
- The presence of the employee constitutes a serious risk to pupils, staff, school property or themselves
- The conduct of an employee is subject to criminal investigation/charges, and the alleged offences relate to or may affect the employee's duties or suitability for duties in a professional capacity
- Strong recommendation by the Local Authority's Designated Officer (LADO) at Allegations against Staff Volunteers (ASV) meeting.

The school should undertake an appropriate risk assessment (Appendix 8) to determine if suspension is appropriate. Suspension should not be an automatic response to a serious allegation. Options to avoid suspension should be considered in all cases and may include:

- Temporary redeployment to another role or another location
- Work under supervision of another designated person

Where it is deemed necessary to suspend, the employee will be notified in writing of the suspension giving reasons for the suspension (See Appendix 9).

Where the allegations relate to safeguarding/child protection and there is strong evidence to support that the 'harm test' has been met (the person has harmed a child or put a child at risk of harm), there may be a case to make a referral to the Disclosure and Barring Service at this stage. It is strongly recommended that the school seek advice from the Local Authority's Designated Officer (LADO) prior to doing so. Advice should also be sought from the LADO about notifying the employee where it has been decided to make a referral.

Other than not attending work and not undertaking the duties of the job, all the employee's other contractual obligations remain in force during the period of suspension. Therefore the employee must make themselves available to attend meetings and hearings at the request of management. In the event that the employee is unwell during a period of suspension they should report their sickness absence to their designated contact and provide medical certificates in line with the school's sickness absence procedures.

The suspension should be kept under continued review and the employee informed in writing of the progress of the case (Appendix 10).

Being suspended from work can be very distressing for an employee and they can be left feeling very vulnerable. It is recommended that the employee is given details of any employee assistance programme that the school may have in place so that the employee can access support if needed. The Headteacher should appoint a designated contact at the school for the employee during their period of suspension. The employee should be given the contact details of the designated contact.

If a suspended employee is to return to work, consideration must be given to what help and support might be appropriate (e.g. a phased return to work and/or provision of a mentor) to assist the employee in their return to work.

4. ROLE OF THE REPRESENTATIVE

Employees have a statutory right to be accompanied, regardless of length of service, by a trade union representative or a work colleague at a disciplinary hearing and any subsequent appeal hearing. If the representative is a work colleague, they should be afforded reasonable paid time off. This should cover time to attend the hearing and also time to familiarise themselves with the case and confer with the employee before and after the hearing.

A representative has the right to address the hearing in order to:

- Put across the employee's case
- Sum up the employee's case
- Respond on the employee's behalf to any view expressed at the meeting

A representative can also confer with the employee during the hearing.

A representative does not have the right to:

- Answer questions on the employee's behalf
- Address the hearing if the employee does not wish them to do so
- Prevent the Investigating Officer from explaining their case

Given the importance of the representative's role, it is good practice to allow them to ask questions and participate as fully as possible.

5. DISABILITY DISCRIMINATION UNDER THE EQUALITY ACT

Reasonable adjustments should be made for employees or their companions who have a disability within the meaning of the Equality Act 2010 to ensure they are not disadvantaged and can participate fully in the disciplinary processes. The nature of the reasonable adjustments, which have to be considered, will depend on an assessment of all the facts and circumstances of each case. Schools may wish to seek advice from Schools HR

6. GUIDANCE ON NOTE TAKING

- Formal note taking at hearings is not a requirement of either the disciplinary or appeal procedure but is advisable to do so. If the Chairperson of the Committee makes the decision that notes will be taken, the provision of the note-taker will be the responsibility of the Committee/School.
- The panel and HR Adviser may take notes at hearings for their own purposes which are adequate to enable for key decisions to be made. These are informal notes and are not for distribution to attendees.
- The outcome of the hearing must be fully documented, including the issues that were considered (including mitigation) in reaching the decision and the detailed rationale behind the decision.
- Tape recording of meetings will not be used unless there are exceptional circumstances, i.e., in the case of a person with a disability when a tape recording may be necessary and regarded as a reasonable adjustment.

7. Keeping Records

It is important, and in the interests of both the school and the employee, to keep written records during the disciplinary process. Records should include:-

- the complaint against the employee
- the employee's defence or mitigation
- findings made and the actions taken
- the reasons for actions taken
- whether an appeal was lodged
- the outcome of the appeal
- any grievance raised during the disciplinary process; and
- any subsequent developments
- notes from any formal meetings/hearings

Records should be treated as confidential and should be retained in accordance with the data protection principles.

7.1 Keeping Records (where the allegation is related to safeguarding/child protection)

Details of allegations that are found to have been malicious should be removed from personnel records. For all other allegations, even in cases where the allegation has not been substantiated, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the person's confidential personnel file, and a copy provided to the person concerned.

The record should be kept at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation whichever is the longer.

Working Together to Safeguard Children explains that the purpose of retaining this record is to:-

- Enable accurate information to be given in response to any future employment reference;
- To provide clarification if a future DBS disclosure reveals information that an allegation was made

which did not result in prosecution or conviction; or

- To prevent unnecessary investigation if an allegation re-surfaces after a period of time.

8. COLLABORATION OF GOVERNING BODIES

The Schools Governance (Collaboration) (England) Regulations 2003, S.I 1962 and as amended by the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013, S.I 1624 Part 1 Regulation 4, enable the governing bodies of two or more maintained schools to work together in relation to staffing functions including dismissals. These provisions allow schools to draw on a wider pool of governors for the purposes of the disciplinary processes.

A school wishing to use collaborated governors should seek advice from Schools HR regarding the engagement of collaborated governors and the procedure to follow.

Annex B

1. Scope

This Code applies to all employees of the School

2. Principles

Offences, which breach the Disciplinary Rules, can be considered as either Gross Misconduct or Misconduct according to the seriousness of the offence and the nature of the employee's job.

The disciplinary rules contained in this document are applicable to all employees.

The list and types of misconduct in these rules is neither exclusive nor exhaustive.

This document and the rules contained within may be amended or extended following consultation with the trades unions through the appropriate machinery.

3. Definitions

3.1 Gross misconduct

Misconduct of such a nature that the school cannot allow the continued presence of the employee at work and that, if the offence is established and there are no acceptable mitigating circumstances, will result in dismissal without any previous warnings. A dismissal for gross misconduct is justified at the first offence and may, depending on the circumstances, be without notice. It is strongly recommended that in cases where gross misconduct and summary dismissal is considered then the Executive Headteacher and/or governing body should seek the advice of their HR advisers.

Misconduct

Misconduct will not normally warrant dismissal without previous warnings. In the case of misconduct an employee shall be entitled to at least a written warning before a decision to dismiss is made.

4 Disciplinary Rules

4.1 Gross Misconduct

The following are examples of offences that would normally be considered as gross misconduct. This list is not exhaustive and the panel may consider a derivative of these examples as an offence constituting gross misconduct. However they may also be considered as misconduct according to the seriousness of the offence and the nature of the employee's job.

4.1. 1 Acts which take place in the course of employment:

a) Any act which could be subject to criminal proceedings. (Certain circumstances may call for the discretion of the headteacher depending upon the nature and context of the offence).

- b) Stealing from the School, its staff or the public.
- c) Deliberate damage to or deliberate neglect of School property (unless for justifiable reasons of protection or safety)
- d) Gross negligence in failing to attend to or to carry out the duties of the post
- e) Falsification of any document, for monetary advantage.
- f) Deliberate falsification of qualification or information which is a stated requirement of employment and/or which could result in financial gain.
- g) Soliciting or accepting gifts or gratuities.
- h) Involvement in any acts of bribery.
- i) Attempted use of official position for private advantage; dishonest or improper use of information obtained in the School's employment.
- j) Doing unauthorised private work (whether paid or not) during hours when contracted to work for the School or during periods of sick leave.
- k) Sexual misconduct at any time with any person for whom you have a responsibility and is in your care in your capacity as an employee of the School.
- l) Child abuse or other conduct giving rise to child protection issues.
- m) Fighting or physical assault at work either with fellow employees or other persons; including maltreatment of persons in the care of the School. This does not include reasonable self-defence in the case of an assault on employee. (Refer to the schools policy on Violence in the Workplace).
- n) Serious breaches of safety regulations, endangering yourself or other people, including deliberate damage to, neglect or misappropriation of safety equipment.
- o) Deliberate disclosure without authorisation, to the media of information about an employee or student who has AIDS/HIV.
- p) Deliberate acts of harassment, on grounds of age, disability, gender, sexual orientation, race and ethnicity, and religion or belief, that involve physical and/or verbal intimidation and/or assault/unlawful discrimination.
- q) Conduct resulting in breach of trust and confidence
- r) Any act that could bring the school into serious disrepute
- s) Serious insubordination – undermining of the Leadership and Management of the school
- t) Unauthorised disclosure of information classified as confidential by the school, governors or the Local Authority
- u) Abuse of the school's ICT Policy
- v) Breaches of the school's Social Networking Policy
- w) Serious breaches of the school's Code of Conduct
- x) Raising grievances which have been determined to be malicious
- y) Being under the influence of drink or drugs (other than those that have been medically prescribed) so that performance of duties is detrimentally affected and/or which could endanger anyone's safety.

4.1.2 Acts which take place outside the course of employment:

Dismissal will result where criminal offences have been committed outside the course of employment where: -

- a) Employment by the School in any way enabled or assisted in the commission of the offence.
- b) School property was used to aid the commission of the offence.
- c) Continued employment would put at risk those served or employed by the School.

4.2 Misconduct

The following are examples of offences that would normally be considered as misconduct. However they may also be considered as gross misconduct according to the seriousness of the offence and the nature of the employee's job.

4.2.1 General

- a) Refusal to carry out a reasonable instruction within the remit of the employee's job description.
- b) Offensive or abusive behaviour (including harassment on grounds of age, disability, gender, sexual orientation, race and ethnicity, and religion or belief) towards other employees or students
- c) Sleeping on duty unless expressly permitted.

4.2.2 Absence from Duty and Timekeeping

- a) Unauthorised absence from work or being late without sufficient cause.
- b) Failure to report absence from work and the reason for such absence.
- c) Failure to provide a medical certificate as required under sickness absence procedures.
- d) Bad timekeeping including taking excessive refreshment breaks.
- e) Abuses of the sick pay scheme including failure to provide acceptable reasons for short term sickness absence.
- f) Unacceptable levels of absence for reasons other than sickness

4.2.3 Neglect of Duty

- a) Failure to discharge obligations in accordance with a statute or contract of employment without sufficient cause.
- b) Negligent, careless or wilfully inadequate standards of work.
- c) Failure to account properly for or to make a prompt and true return of any money or property, which comes into the possession of an employee during the course of duty.

4.2.4 Misuse/Falsification of Information

- a) Knowingly or through neglect making a false, misleading or inaccurate oral or written statement in respect of official business.
- b) Failure to disclose a conviction, caution, reprimands or final warnings that are not 'protected' as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended in 2013. Communicating to persons outside of the school of proceedings of any committee meeting or the contents of any document unless required by law or authorised to do so or unless seeking advice of their union on the implications of the meeting.
- c) Deliberate disclosure without authorisation to colleagues, any members of the public or person known to an employee or client, of information about an employee or student who has AIDS/HIV.

4.2.5 Misuse of School Materials/Equipment/Resources

- a) Unjustifiable wastage of School materials/equipment/resources.
- b) Deliberate failure to report any loss or damage to any property of the School, within your area of responsibility.
- c) Unauthorised use of School vehicles whether during or outside the working day. Unauthorised use of School vehicles for personal journeys including journeys to and from home or during the lunch break.
- d) Unauthorised use of any School facilities for private purposes unless authorised by a relevant school authority to do so.
- e) Use of waste School material without express authority.

f) Use of School labour, materials, equipment or resources for private purposes

4.2.6 Discrimination

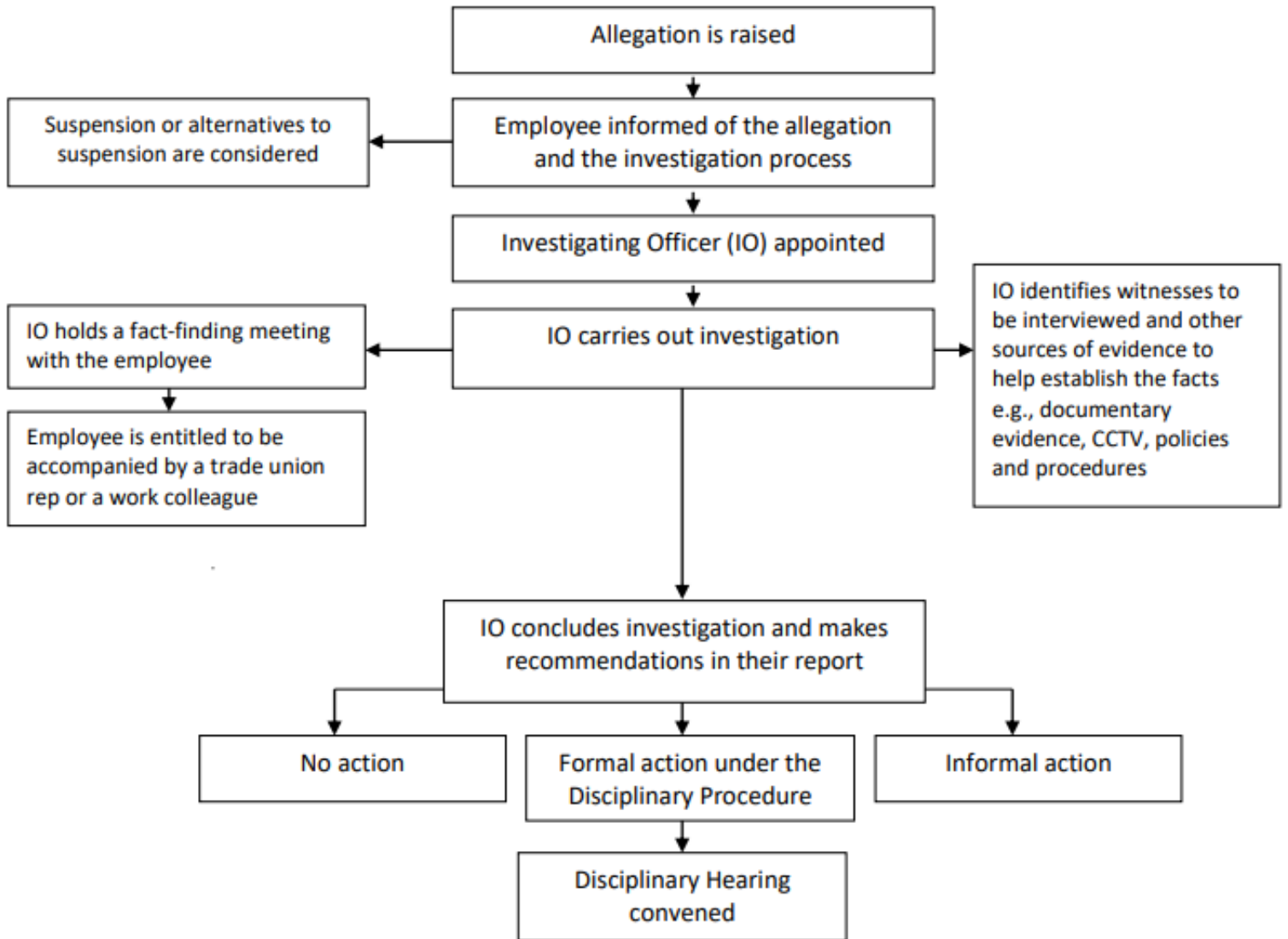
- a) Discrimination against an employee, student, parent or a member of the public on **any grounds** including sex, colour, race, nationality, religion, ethnicity, age, disability and sexual orientation.

4.2.7 Health and Safety

- d) Failure to comply with the obligation placed upon you under the terms of the Health and Safety at Work Act 1974.
- e) Failure to wear appropriate protective clothing or use necessary safety equipment provided by the School for particular duties.
- f) Failure to comply with accident reporting procedures.
- g) Failure to comply with department hygiene requirements.
- h) Dangerous or reckless behaviour involving risk of injury to yourself or to other persons or other conduct at work likely to diminish safety standards.
- i) Neglecting to carry out any instructions of a medical officer appointed by the School, while absent from duty on account of sickness, committing any act or adopting any conduct calculated to delay return to duty.
- j) Smoking in areas designated as no smoking

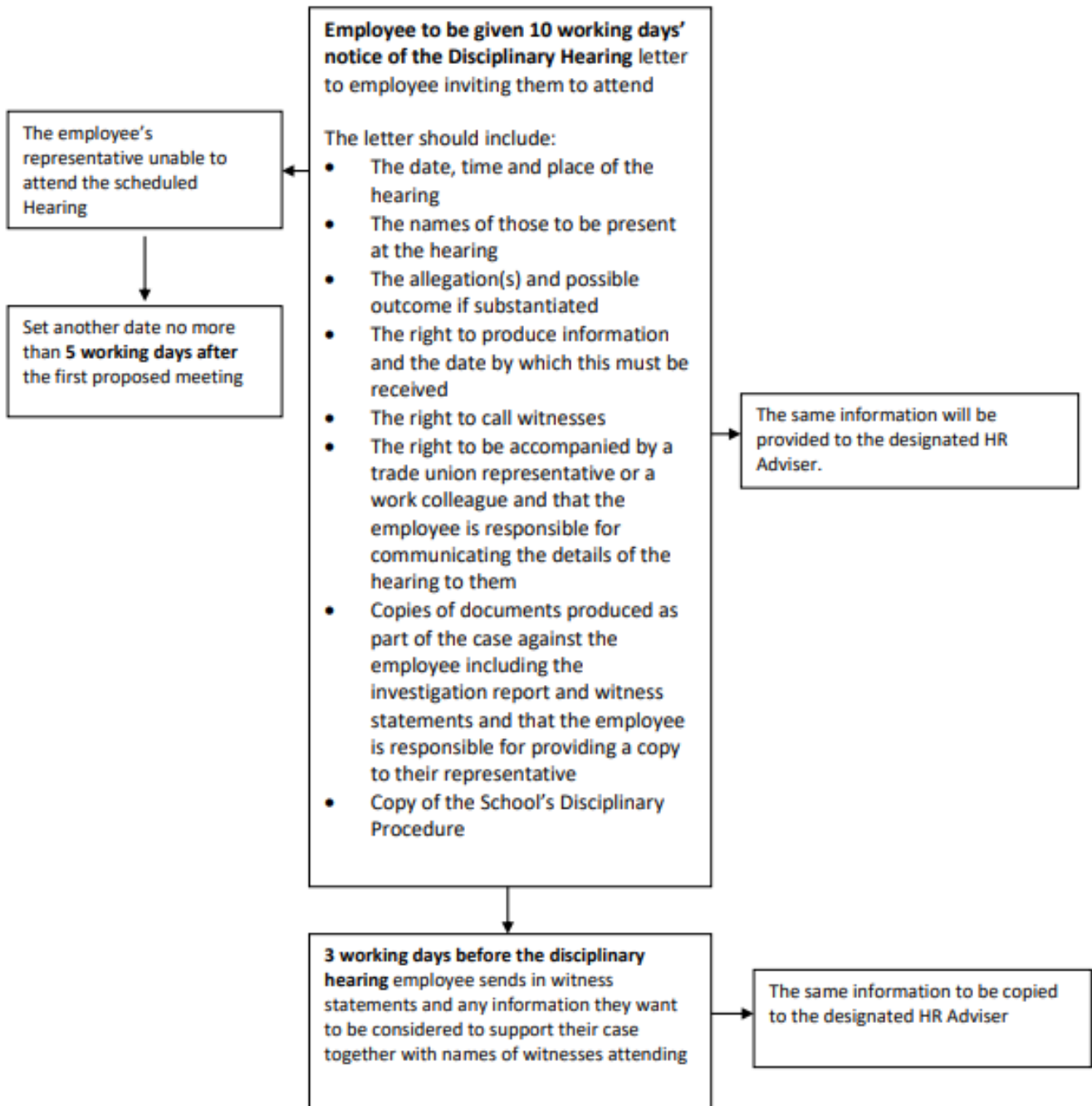
Appendix 1

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Appendix 2

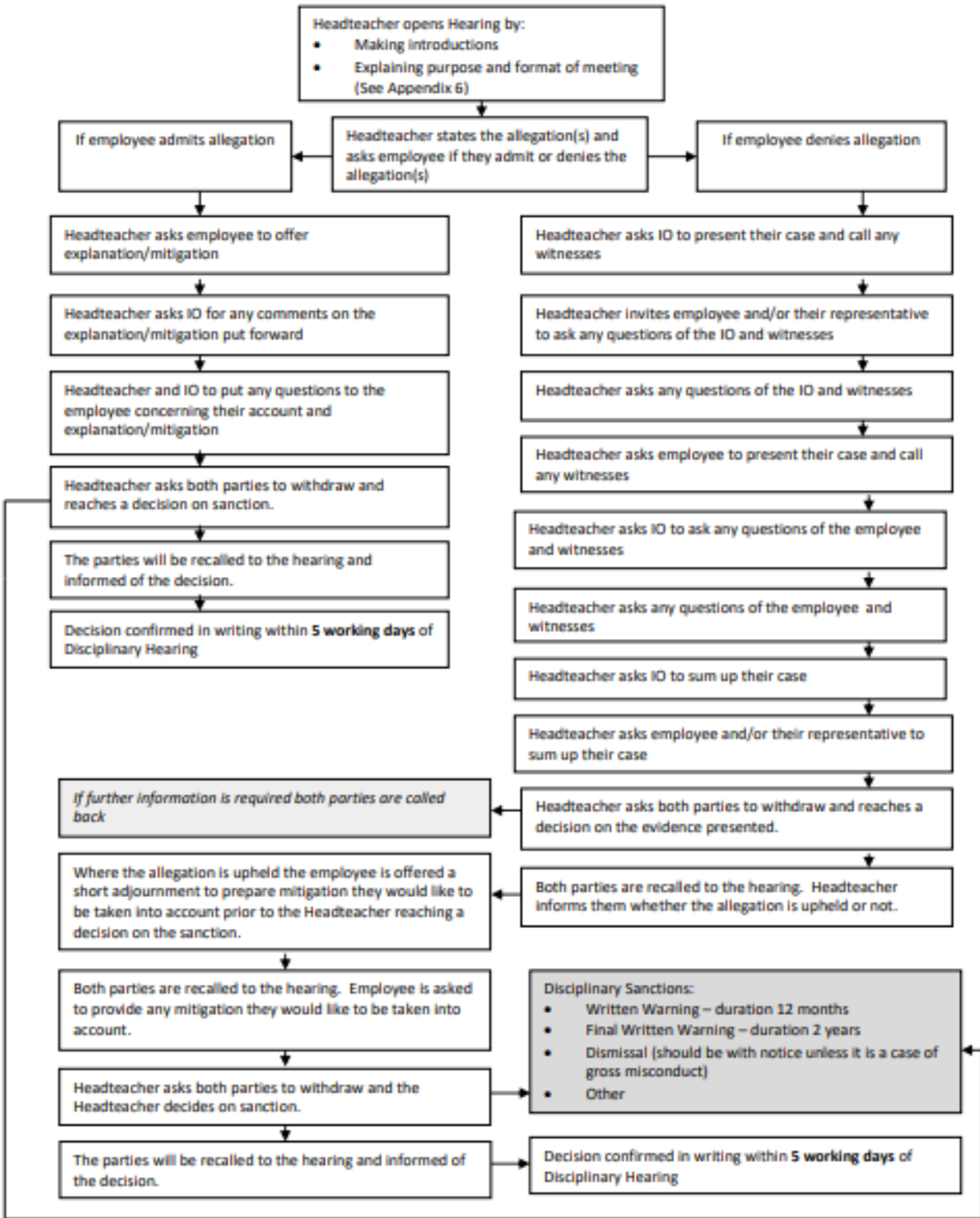
Preparation for Disciplinary Hearing Flowchart



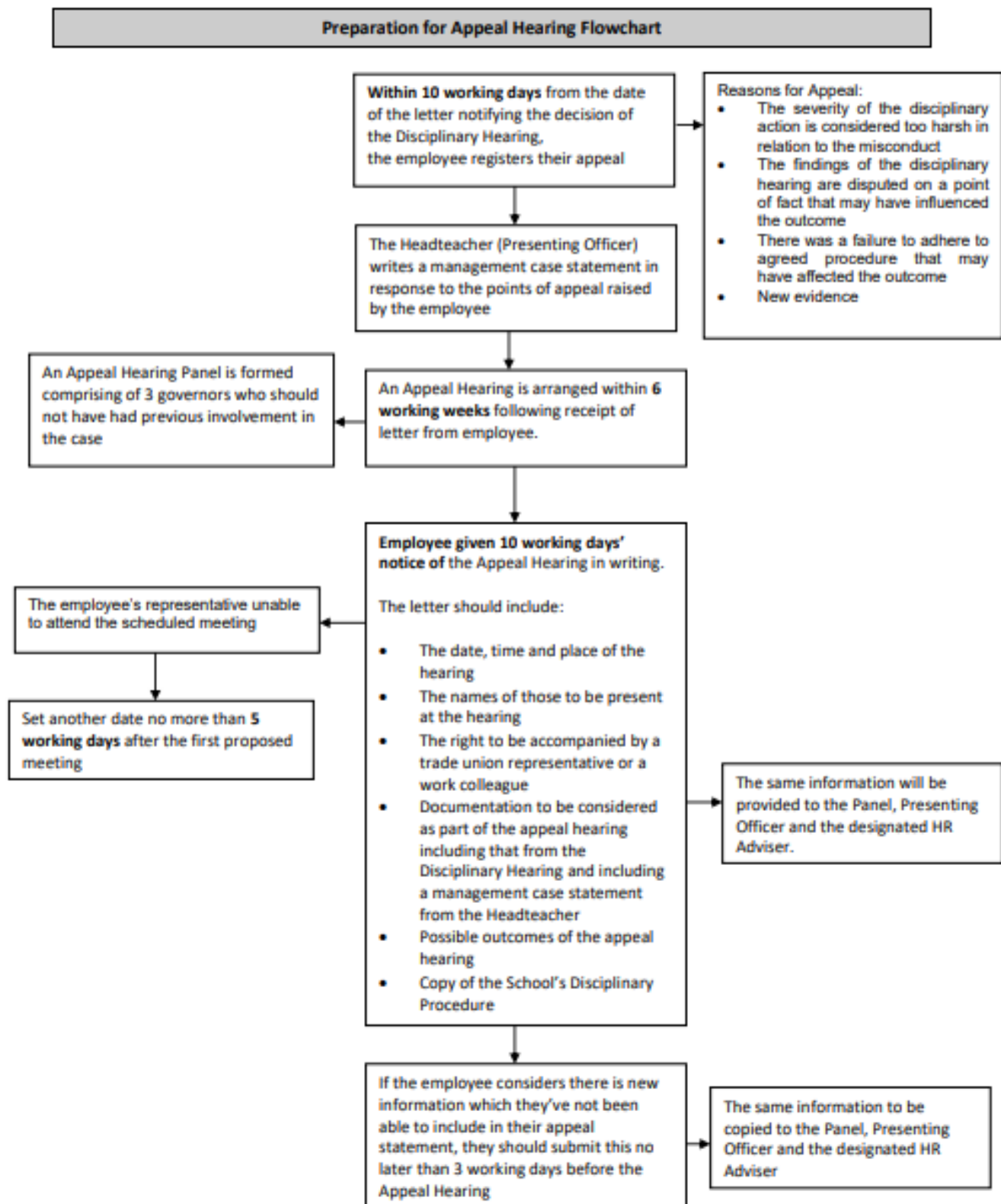
Appendix 3

Appendix 3

Disciplinary Hearing Flowchart



Appendix 4



Appendix 5

Appeal Hearing Flowchart

Chairperson opens Hearing by:

- Making introductions
- Explaining purpose and format of meeting

Chairperson asks employee and/or their companion to present their case, give reasons for appeal, and call any witnesses

Chairperson asks the Presenting Officer to ask any questions of the employee and/or their companion and witnesses

The Panel to ask any questions of the employee and/or their companion and witnesses

Chairperson asks the Presenting Officer to present their case and call any witnesses

Chairperson invites employee and/or their companion to ask any questions of the Presenting Officer and witnesses

The Panel asks any questions of the Presenting Officer and witnesses

Chairperson asks employee and/or their companion to sum up their case

Chairperson asks the Presenting Officer to sum up their case

Chairperson asks both parties to withdraw

Appeal Panel reach a decision on the evidence presented before it

Chairperson calls back both parties and informs employee of decision. Decision confirmed in writing within **5 working days** of Appeal Hearing

Where the appeal is on the grounds of new evidence, the Appeal Hearing Panel may consider it necessary to adjourn the Hearing if further investigation into the new evidence.

Where this is the case, it is expected that the Presenting Officer is the most appropriate person to conduct this investigation.

The Appeal Hearing will be convened once the investigation has been concluded.

The employee will be given **10 working days'** notice of the reconvened Hearing.

If further information is required both parties are called back

Outcomes of the Appeal Hearing can be one of the following

- Uphold the appeal and dismiss any disciplinary action
- Substitute a lesser level of disciplinary action
- Dismiss the appeal and uphold the disciplinary action

Appendix 6

Front Sheet and Opening Statement for the Headteacher/Chair of Panel

(INSERT NAME OF EMPLOYEE)
Disciplinary Hearing

Date of Hearing: (insert date of hearing)

Time of Hearing: (insert time of hearing)

Venue: (insert venue)

| | |
|--|--|
| Headteacher/Disciplinary Hearing Panel: | (Insert name of Governor 1) |
| | (Insert name of Governor 2) |
| | (Insert name of Governor 3) |
| Investigation Officer: | (Insert name of Investigating Officer) |
| HR Adviser: | (Insert name of HR Adviser) |
| Employee's Companion: | (Insert name of representative and if a union rep state which union) |
| Names of Witnesses being called by the Investigating Officer: | (List the names of witnesses) |
| Names of Witnesses being called by the Employee: | (List the names of witnesses) |

Allegation(s)

Insert the allegation(s) here as outlined at the outset

Documents Enclosed:

List the documents which are being enclosed under cover of this Front Sheet

Opening statement for the Headteacher/Chair of Panel

“Thank you for attending the meeting today. I will start with introductions, I am (Name), I will be chairing the meeting today and this is (introduce the other members of the panel). Can I ask you to introduce yourselves as well so that we all know who is who.

The purpose of the meeting today is to consider the allegations made against (insert name of employee). An investigation has been carried out and it is considered that (insert name of employee) has a case to answer. I will now go through the order of the meeting today:

- I will read out the allegation(s)
- I will ask (insert name of employee) if he/she admits to the allegation(s) wholly or in-part. If (insert name of employee) admits to the allegations wholly or in-part:
- I will ask (name of employee) if he/she would like to offer an explanation and if there are any mitigating circumstances that he/she would like the panel to take into consideration.
- The Investigating Officer and I/the Panel may ask any questions of (name of employee) on the explanation given. • I will then ask both parties to leave the room and wait outside so that I/the panel can reach a decision on the evidence presented. All parties will be called back into the room once a decision has been reached. If (insert name of employee) does not admit to the allegations wholly or in part:
- I will ask (insert name of the Investigating Officer) to present his/her case during which he/she may call witnesses. (insert name of employee) and (insert name of representative) may ask (insert name of the Investigating Officer) and any witnesses that are called questions about the facts presented by them.
- Any witnesses called will appear one at a time and remain in the room only whilst they are giving evidence.
- I will then ask (insert name of employee) to present his/her case during which he/she may call any witnesses. Then (insert name of Investigating Officer) and the panel may ask (insert name of employee) and his/her witnesses questions on the facts presented by them.
- After this, both parties will be invited to sum up their case in the order in which presentations were made.
- After this I will ask both parties to leave the room and wait outside whilst the panel reach a decision. I will call everyone back into the room when a decision has been reached.
- If during our deliberations I/we need to seek clarification from either party about the evidence that has been presented, both parties will be called back into the room.
- I would just like to clarify the role of (insert name of employee)'s representative (insert name of representative) in this meeting. He/she may: present (employee's name)'s case, sum up (employee's name)'s case, respond on (insert employee's name)'s behalf to any view expressed in this meeting; however, he/she cannot answer any questions on (insert employee's name)'s behalf which are put to him/her in this meeting.
- Does anyone have any questions about the order and the process of the meeting? I will now read out the allegation(s) against (insert name of employee). (state the allegation(s) here) (insert employee's name) do you admit to the allegation(s) which has/have been made against you?"continue the meeting in the order as stated above

Appendix 7

Notification of Fact-Finding Meeting

Dear

Fact-Finding Meeting

I am writing to inform you that there is an allegation against you that you(*insert allegation(s)*).

Under the Disciplinary Policy and Procedure I am required to carry out an investigation into the allegation and would like you to attend a meeting on (date) at (time) at (place). You may bring a work colleague or a trade union representative to accompany you to the meeting.

I would like to inform you that this is not a disciplinary meeting. The purpose of the meeting is to give you the opportunity to respond to the allegation and assist in establishing the facts.

I realise that this will be an anxious time for you and would like to give you details of the school's employee counselling service so that you may seek help and support if you need it. You can contact them on (*insert contact details*)

If you have any questions about the content of this letter please contact me.

Yours sincerely

Investigation Officer

Appendix 8

Suspension Risk Assessment

This form can be used to assist the consideration of suspension and alternatives to suspension. In cases involving allegations of child abuse made against staff, the Local Authority's Designated Officer (LADO) should be consulted about suspension.

| Details of Employee | | |
|--|-------|--|
| Name: | Post: | How long has the employee been employed at the school: |
| Details of any similar previous concerns/allegations | | |

| Details of Manager carrying out the risk assessment | |
|---|-------|
| Name: | Post: |

| Details of allegation(s) | | | | |
|--|--|------------|-----------|------------------|
| | | Yes | No | Not Known |
| Does the nature of the allegation suggest the person has behaved in a way that has harmed a child, or may have harmed a child | | | | |
| Does the nature of the allegation suggest the person has possibly committed a criminal offence against or related to a child | | | | |
| Does the nature of the allegation suggest the person has behaved towards a child or children in a way that indicates he or she may pose risk of harm to children | | | | |
| Are the police investigating the allegation? | | | | |
| Do the police have objection to the employee continuing to work during the investigation? | | | | |
| Does the LADO have objection to the employee continuing to work during the investigation? | | | | |
| Has the individual accepted that the version of events provided is accurate? | | | | |
| If substantiated, is the allegation(s) of a nature, if proven, likely to constitute gross misconduct. | | | | |

| Assessment of Risk | | | | | | |
|---|--|-----------------------|-----|----------|------|-----------|
| Potential hazard | | Likelihood (tick one) | | | | |
| | | Very Low | Low | Moderate | High | Very High |
| Is there a risk to the safety or welfare of others? | | | | | | |
| Detail | | | | | | |
| Is there a risk to the individual's safety or welfare? | | | | | | |
| Detail | | | | | | |
| Is there a risk to school premises or property? | | | | | | |
| Detail | | | | | | |
| Is there a risk to the investigation (e.g. potential for interference)? | | | | | | |
| Detail | | | | | | |
| Is there a risk to reputation and/or service delivery if the individual is allowed to stay at work? | | | | | | |
| Detail | | | | | | |

| Alternatives to suspension | |
|--|--|
| Are there alternatives to suspension which would lessen the risk? Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| If yes, please outline the possible alternative(s) below. If no, please explain why. | |
| Details: | |
| | |

| |
|---|
| Overall assessment (Please provide any relevant comments below) |
| |

| |
|---|
| DECISION: SUSPEND <input type="checkbox"/> DO NOT SUSPEND <input type="checkbox"/> |
| If decision is NOT to suspend please outline any recommended control measures/alternatives to suspension below: (if employee does not accept these, this may require the assessor to review their decision not to suspend). |
| |

| | | | | | |
|---|--|--|-------------|--|--|
| Date on which suspension/alternative arrangements confirmed to employee | | Is a referral being made to DBS? (see Annex A – Section 3) | Yes: No: | Date written confirmation letter given/sent to employee: | |
|---|--|--|-------------|--|--|

| | |
|---|---|
| Date of review of suspension/alternative arrangements | Insert below details about what has changed and if this strengthens/weakens the original decision on suspension |
|---|---|

| | |
|--|--|
| Continue with suspension: <input type="checkbox"/> | End suspension and return employee to work: <input type="checkbox"/> |
|--|--|

Name and designation of Manager undertaking the review:

Appendix 9

Notification of Suspension

Dear

I refer to the allegation that you (details of the allegation) which needs to be investigated under the school's Disciplinary Procedure.

Following an appropriate risk assessment I am writing to confirm the decision taken under the Schools' Disciplinary Procedure, to suspend you from work with effect from until further notice. Your suspension is without prejudice and on full pay.

The reason for your suspension is because

.....the allegation being investigated (if proven) would constitute gross misconduct

.....your presence at work might hinder or influence the disciplinary investigation

.....your presence constitutes a serious risk to pupils, staff, school property or themselves

.....your conduct is subject to criminal investigation/charges, and the alleged offences relate to or may affect your duties or suitability for duties

.....it is a strong recommendation by the Local Authority's Designated Officer (LADO) following the recent Allegations against Staff Volunteers (ASV) meeting held on (date).

Having considered alternatives to avoid suspending you from work, which included:

.....Temporary redeployment to another role or another location

.....Work under supervision of another designated person it was considered that these were not reasonable safeguards to address the measured risks.

Please do not return to the school unless it is with my express agreement. Please do not contact any other member of staff, pupil at the school or any member of the Governing Body without my knowledge or agreement, whilst the suspension is in force, this includes the use of any social networking sites.

You are required to maintain confidentiality in respect of your suspension from work and any matters that relate to this investigation. For the avoidance of doubt this does not preclude you from speaking to or taking advice from your trade union representative or work colleague you have chosen to support you. In the case of the latter you must inform me the name of the colleague prior to making contact.

The decision to suspend you will be reviewed regularly and may be reconsidered at any time in the light of new evidence during the investigation. As suspension can be lifted at any time, during this time you

are regarded as being available for work, or to attend for any reason related to the investigation.

Should you be sick during your period of suspension please inform your designated contact named below. You should provide medical certificates to cover your sickness absence in the normal manner.

Requests for annual leave or requests for leave under the Special Leave Policy should be requested in the normal manner and will remain subject to approval by management prior to the leave being taken.

Following the investigation, if it is considered that you have a case to answer, the School's Disciplinary Procedure will be followed, and you will be notified accordingly. If the matter subsequently progresses to a disciplinary hearing and you need to contact any school employee to prepare your own witness statement you must inform me before making contact.

(Name of designated person) will be your designated point of contact at the school during the period that you are away from the school. He/she will keep you informed of general activities and news at the school. If you wish to contact the school for any reason please telephone (name of designated person) on (insert telephone number).

If you wish to collect any personal belongings at the school please contact (name of designated person) who will make the appropriate arrangements.

I appreciate that this will be a difficult time for you and would like to inform you that the school's employee counselling service is available if you require support at this time. You can contact them on (insert contact details)

Yours sincerely

Headteacher/Chair of Governors

Appendix 10

Notification of Suspension Review

Dear

Review of Suspension

I am writing to inform you that your suspension will continue until further notice as the investigation into the allegation(s) has not been concluded.

I would like to remind you that the school's confidential employee assistance programme is available for you to access if you wish to do so. Details have been previously provided to you.

or

I am writing to inform you that the investigation into the allegation(s) that you (enter details of the allegations) has now been concluded and recommends that the matter progresses to a formal disciplinary hearing.

The school will make arrangements for a disciplinary hearing to be convened and you will be notified accordingly once these arrangements have been finalised. You will be given due notice of the hearing in accordance with the Disciplinary Procedure and you will be supplied with the relevant paperwork to support the case against you. You will have the right to be accompanied to the hearing by a trade union representative or a work colleague.

Your suspension remains in force until the outcome of the disciplinary hearing is known.

I would like to remind you that the school's confidential employee assistance programme is available for you to access if you wish to do so. Details have been previously provided to you.

or

I am writing to inform you that the investigation into the allegation(s) that you (enter details of the allegations) has been concluded and finds no case against you. As a result your suspension has been lifted with immediate effect.

Please attend work on (date) at (time) when I will meet with you to discuss the arrangements to support your return to work and give you the opportunity to ask any questions that you may have about your return to work. For avoidance of doubt I will not be able to discuss any aspect of the investigation.

Appendix 11

Notification of Disciplinary Hearing

Dear

Disciplinary Hearing

I am writing to advise you that as a result of the investigation into the allegation(s) that you (set out summary details of the alleged misconduct), your attendance is required at a formal Disciplinary Hearing.

The Hearing will take place on (date) at (place) at (time) and will be heard by (list those hearing the hearing).

I must inform you that if the allegation is proven it will constitute gross misconduct under the Disciplinary Code for Schools and, without any acceptable mitigation, will lead to your dismissal.

or

I must inform you that if the allegation is proven it will constitute misconduct under the Disciplinary Code for Schools and could lead to a /written warning/final written warning In the event that you are already subject to a written warning/final written warning, this will be taken into account when determining the level of sanction.

The following witnesses will be called to give evidence at the Hearing in support of the Management Case:-

(state the names of witnesses)

You have the right to be accompanied by a trade union representative or a work colleague. It is your responsibility to arrange for a representative to accompany you to the Hearing. If your chosen representative is unable to attend the scheduled hearing, you may propose another date and time for the meeting to take place to me. Any such alternative date must be on or before (enter date 5 working days after the date being proposed in this letter).

You also have the right to produce written statements and to invite witnesses to give evidence in support of your case. You should ensure that copies of any written statements upon which you wish to rely at the hearing are given to me no later than 3 working days before the hearing, together with the names of any witnesses that will be attending.

I enclose copies of the documentation which will be considered at the hearing and includes the Investigation Report, Witness Statements and a copy of the School's Disciplinary Policy and Procedure. It is your responsibility to pass a copy of the paperwork to your representative should they request it.

I appreciate that this will be a difficult time for you and would like to inform you that the school's employee counselling service is available if you require support at this time. You can contact them on (insert contact details)

If you have any queries with regards to the contents of this letter or the Disciplinary Procedure please contact me.

Yours sincerely

Headteacher/Chair of Governors

Appendix 12

Notification of Outcome of Disciplinary Hearing

Dear

Outcome of Disciplinary Hearing on (insert date)

Following the disciplinary hearing on (date), I write to confirm that I/the Disciplinary Hearing Panel has determined that:-

The allegations against you have not been proven and no further action will be taken

The allegations against you have been upheld in full and constitute (misconduct/gross misconduct)

The following allegations (give details) have been upheld against you but (the panel) concluded that allegations that you (give details) were not proven

The reasons for reaching this decision are

As a result the Disciplinary Committee has decided that

You should receive a written warning /final written warning to remain on your record for (12 months/2 years/other) and this letter constitutes notice of the same

You are to be dismissed and your employment terminated with effect from (date)

No formal action will be taken on this occasion but I/Disciplinary Hearing Panel require(s) you to (details of standard of conduct required) and remind you that failure to maintain such standards may result in further disciplinary action being taken against you.

You should receive a written warning/final written warning, but as you are already subject to a written warning/final written warning, you will receive a final written warning/you will be dismissed (Set out details of improvement expected of employee, if applicable).

To assist and support you in attaining these standards (details of support structures). Your progress will be reviewed at the meeting with (headteacher/line manager) in (x) weeks' time.

If you fail to reach the required standards, further disciplinary action may be taken against you, which could lead to a final written warning being issued/ or your dismissal without further warning.

Notes from the Disciplinary Hearing are attached for your information.

You have the right to appeal against the disciplinary action in accordance with the School's Disciplinary Procedure. If you wish to appeal, you must submit a written statement of appeal to me within 10 working days of receipt of this letter. The letter should clearly state the grounds of the appeal, which can be based on any or all of the following:

- The severity of the disciplinary action and/or
- The finding of the disciplinary hearing on a point of fact and/or
- A failure to adhere to agreed procedure
- New evidence

Any appeal will be heard by an Appeal Hearing Panel.

Yours sincerely

Headteacher/Chair of Governors

Appendix 13

Notification of Appeal Hearing

Dear

Appeal Hearing

Following your letter of (date) notifying the school that you wish to appeal against the decision taken at the Disciplinary Hearing held on (date), I am writing to inform you that an Appeal Hearing will take place on (date) at (time) at (venue) to hear your appeal.

You are appealing on the grounds of: (select whichever is relevant)

- The severity of the disciplinary action and/or
- The finding of the disciplinary hearing on a point of fact and/or
- A failure to adhere to agreed procedure
- New evidence

The Appeal Hearing Panel will be:

List the 3 panel governors here

Name of Headteacher/Chair of Disciplinary Hearing Panel will present the school's case in response to your grounds for appeal.

You have the right to be accompanied trade union representative or a work colleague. It is your responsibility to arrange for a representative to accompany you to the Hearing and to inform them of the details of the Appeal Hearing. If your chosen representative is unable to attend the hearing on the given date and time, you may propose another date and time for the meeting to take place to me. Any such alternative date must be no later than (enter date 5 working days after the date being proposed in this letter).

The documentation to be considered at the Appeal Hearing is attached. It is your responsibility to provide a copy to your representative should they request it.

Yours sincerely

Appendix 14

Notification of Outcome of Appeal

Dear

Following the Appeal Hearing on (date) I am writing to confirm the decision of the Appeal Hearing Panel.

In making their decision the Appeal Panel considered all of the information presented to them by yourself, the Presenting Officer, and the documentary evidence available.

Indicate here any other factors which have influenced the decision

It is the Appeal Panel's decision to:

Dismiss your appeal and to uphold the decision taken by the Disciplinary Hearing Panel.

Uphold your appeal and dismiss the disciplinary action. The panel has reached this decision based on (state the grounds for the decision)

You are to be re-instated in your post as (post title) with effect from (date) date of termination/where the notice has expired from the date of the expiry of the notice period.

Any record of the disciplinary action that has been placed on your personnel file will be removed.

OR

Substitute a lesser level of disciplinary action to:

- Written warning/Final Written warning
- Transfer to another post (state details of post and effective date)

OR

- Demotion to (post title) with/without protection of salary

The panel may wish to make recommendations around monitoring and review of conduct in the post/any trial periods etc.

I must advise you that the Appeal Hearing Panel's decision is final.

Yours sincerely

Revision History

| Version | Date | Author | Comments |
|---------|---------------|--------|--|
| 1.0 | February 2013 | HT | Based on School's HR Co-operative policy |
| 2.0 | April 2014 | HT | Based on School's HR Co-operative policy |
| 3.0 | April 2016 | HRM | Based on School's HR Co-operative policy |
| 4.0 | July 2018 | HRM | Based on School's HR Co-operative policy |
| 5.0 | November 2019 | | Based on School's HR Co-operative policy |

Approval History

| Version | Approved | Comments |
|---------|---------------|--------------------------------------|
| 1.0 | February 2013 | By Strategic Board of Governing Body |
| 2.0 | April 2014 | By Strategic Board of Governing Body |
| 3.0 | April 2016 | By Strategic Board of Governing Body |
| 4.0 | July 2018 | By Strategic Board of Governing Body |