



KALEIDOSCOPE

Multi Academy Trust

Staff Disciplinary Policy

June 2020

(Based upon the North Somerset Model Policy)

Approved by: Kaleidoscope Trust Board

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CONTENTS

| | |
|---|-----------|
| Policy Overview and Note | 3 |
| Scope and Links to Other Policies | 3 |
| General Principles | 4 |
| Disciplinary Procedure | 5 |
| Initial Meeting | 5 |
| Management Meeting | 6 |
| Verbal Warning | 6 |
| Suspension | 6 |
| The Disciplinary Investigation | 8 |
| The Disciplinary Hearing | 8 |
| Possible Outcome of Disciplinary Hearing – Disciplinary Sanctions | 9 |
| Appeals against Disciplinary Sanctions | 11 |
| Miscellaneous Provisions | 11 |
| Records | 11 |
| Attendance at Meetings | 12 |
| Right to be Accompanied | 12 |
| Access to Information | 13 |
| Criminal Conduct | 13 |
| Financial Irregularities | 13 |
| Protection of Vulnerable Groups | 14 |
| Equal Opportunities | 15 |
| Other Relevant Policies / Documents | 15 |

Appendices

- Disciplinary Policy – Guidance for Managers
- Disciplinary Policy Procedures Standards and Conduct
- Disciplinary Policy Protocol for Hearing
- Disciplinary Policy Model Letters

DISCIPLINARY POLICY AND PROCEDURE

1. POLICY OVERVIEW AND NOTE

- 1.1 This policy is designed to help and encourage all employees (teaching and support staff) to achieve and maintain high standards of conduct and to ensure that all employees are treated fairly and consistently in all disciplinary matters.
- 1.2 Please note that where 'trade union representatives' or 'trade unions' are referred to in the text of this Policy, what is meant is the designated North Somerset Council Representative or Regional Official of each Recognised Trade Union (not the school-level representatives of those Trade Unions). The exception to this is where reference is made to employees having the right to be accompanied by a trade union representative, official employed by a trade union or work colleague. In this instance, the choice of representative would be made by the individual employee in consultation with the trade union as necessary.

2. SCOPE AND LINKS TO OTHER POLICIES

- 2.1 This policy applies to 'employees' only. It does not apply to individuals engaged to undertake work where no employment relationship exists, for example agency workers, casual workers, volunteers, work experience placements.
- 2.2 Minor infringements of expected standards of conduct/performance should be dealt with through effective management practice by way of advice, discussion, counselling, coaching, mediation or training and management instructions. This policy will only normally be used when such normal management practice has failed to achieve the required standard or expected level of improvement, or where the nature of the misconduct issue is sufficiently serious to justify formal disciplinary action. An indicative list of conduct which may lead to formal disciplinary action being taken is attached as **Appendix 1**.
- 2.3 In respect of 'performance' related concerns this policy should only be used where the performance issue relates to negligence or an attitudinal problem on the part of the employee. For other performance related issues the following procedures should be followed:-
 - where the poor performance is related to the employee's aptitude, skills or ability the *Capability Policy* will apply;
 - where the reason for the poor performance is related to the employee's health, the *Attendance Management Policy* will apply;
 - where the reason for the poor performance is related to an underlying drug or alcohol dependency, the *Alcohol and Drug Misuse Policy* will apply (where the school has one in place); and
 - where the poor performance issue is identified during the employee's probationary period, the *Probationary Policy* will apply.
- 2.4 In relation to allegations are made against adults working with children, there are specific procedures laid down within relevant Government (DfE) guidance (the *Procedure for Managing Allegations Against People Who Work with Children*). Where the Local

Authority's Designated Officer for Allegations and, where relevant, the Police have advised that the allegations may be dealt with internally by the School as a conduct issue, the Managing Allegations Procedure will need to be read in conjunction with this model Disciplinary Policy. This Procedure is available on our website. (See **Paragraph 17** for further details).

3. GENERAL PRINCIPLES

- 3.1 All disciplinary proceedings and decisions will be confidential and information will only be disclosed where an individual has a legitimate right to information under the provisions of the Disciplinary Procedure.
- 3.2 No disciplinary sanction will be imposed against an employee until the alleged misconduct issue(s) have been fully investigated. (N.B Suspension is not a disciplinary sanction - see Section 6).
- 3.3 With the exception of allegations relating to the safeguarding of children and vulnerable adults, no allegations that are made anonymously will be investigated.
- 3.4 In the event that an anonymous allegation is received that relates to the safeguarding of children and vulnerable adults, Human Resources will be contacted immediately for advice.
- 3.5 For further information regarding the question of the anonymity of witnesses, please contact Human Resources.
- 3.5 Employees will be informed of the matters to be considered under the disciplinary procedure and, where possible, given the opportunity to respond to all relevant evidence before any Disciplinary Hearing.
- 3.6 Any disciplinary sanction will be reasonable and proportionate to the individual case.
- 3.7 All employees will have the right of appeal against any formal recorded disciplinary warning or dismissal.
- 3.8 Employees have the right to be accompanied at any formal meetings by a trade union representative, official employed by a trade union or work colleague.
- 3.9 In the event that an employee raises a Grievance in connection with the conduct or handling of this Disciplinary Procedure, the School could choose to resolve the Grievance using the separate Grievance Procedure before further action is taken under the Disciplinary Procedure. Alternatively, it might be appropriate to deal with both at the same time. Please note that the Grievance Procedure will not apply if the employee wishes to complain about actions short of dismissal to which the school's Disciplinary or Capability Procedures apply unless the grievance is that these actions involve unlawful discrimination or are not genuinely on the grounds of conduct. Please see the Kaleidoscope Grievance Procedure.

3.10 **If the allegation is safeguarding related, the School must act in accordance with the guidance set out in paragraphs 17 of this Policy.**

4. DISCIPLINARY PROCEDURE

4.1 Initial Meeting

4.1.1 If following informal management action / instruction, there is no satisfactory sustained improvement in conduct or there is an alleged infringement in discipline which is considered to be of a sufficiently serious nature the Headteacher or his/her senior leader representative should arrange to meet with the employee under the terms of the Disciplinary Procedure. If the issue involves the Headteacher, then the CEO will arrange the meeting. The employee should be informed that the meeting is being arranged under the Disciplinary Policy. This meeting should be convened as soon as possible after any incident/ infringement.

4.1.2 The purpose of this Initial Meeting under the Policy will be to establish the employee's initial response and on the basis of this to decide what appropriate action, if any, (including conducting an investigation) should be taken.

4.1.3 When the allegations is being treated as a safeguarding matter and the DFE's *Procedure for Managing Allegations Against People Who Work with Children* is being followed, and where the LA's DOFA has advised it is appropriate, the employee should be advised that this is the case and that if an investigation was to find that there was sufficient evidence to substantiate the allegation, this will be recorded as a substantiated safeguarding allegation on the employee's personal file in accordance with *Keeping Children Safe in Education*.

4.1.4 The employee should be advised to seek the support of their trade union.

4.1.5 Outcomes of this meeting could be:

- to drop the matter with no further action required;
- to hold a further 'Management Meeting' to determine whether changes to management practices or procedures and /or further management support for employee or the issuing of a verbal warning are appropriate
- to fully investigate employee's alleged misconduct (including 'gross misconduct' and criminal conduct) under the provisions of the Disciplinary Procedure;
- if the decision is to fully investigate, to suspend the employee pending the outcome of the disciplinary investigation process; or
- to refer the matter for consideration under the Appraisal and Capability Policy.

4.1.6 Written notes of this meeting will be made, the notes will be shared and agreed, where possible, with the employee and the outcome must be communicated to the employee, in writing, within 5 working days of the meeting. A copy of this letter, and the meeting notes, should be retained on the employee's personal file held by the Headteacher.

4.1.7 The Trust's HR service provider (North Somerset HR) and the relevant trade union regional officer should be notified before any formal disciplinary action is taken in respect of a Trade Union Representative.

4.2 Management Meeting

4.2.1 Where the outcome of the Initial Meeting is that a 'Management Meeting' be held, the Headteacher or his/her senior leader representative should arrange to meet again with the employee under the terms of the Disciplinary Procedure. The employee should be informed that the meeting is being arranged under the Disciplinary Policy and informed of their right to be accompanied for support at the meeting by a trade union representative, official employed by a trade union or a work colleague.

4.2.2 The purpose of this 'Management Meeting' will be to determine whether it is appropriate:

- to drop the matter with no further action required;
- to take no further action against the employee but to change management practices or procedures and /or to provide further management support identified for employee;
- to deal with the matter in consultation with the employee (which could involve issuing a recorded verbal warning).

4.2.3 Written notes of this meeting will be made, agreed, shared and retained as in the case of the Initial Meeting.

5. VERBAL WARNING

5.1 Where it is considered that no further investigation is needed and that there is sufficient evidence to substantiate the alleged misconduct issue a verbal warning may be issued where the issue is of a relatively minor nature. A verbal warning should be confirmed in writing to the employee setting out:-

- that it is the first stage of the Disciplinary Procedure;
- the standards of conduct required;
- that any failure to improve or modify their conduct could lead to further formal disciplinary action and ultimately dismissal and
- that the recorded verbal warning will stay on their file for 6 months.

6. SUSPENSION

6.1 Suspension is a response available to remove an employee from the workplace in order to investigate the circumstances relating to any alleged misconduct. The authority to suspend rests with the Headteacher (Trust CEO in the case of a Headteacher). The School agrees to consult with the Trust's HR service provider in these circumstances. Whilst suspension is not a disciplinary sanction it should not be imposed on an employee without reasonable and proper cause. Any decision regarding suspension should weigh up the interests of the employer in carrying out a fair and reasonable investigation alongside the interests and welfare of the employee who is the subject of the investigation and any witnesses.

6.2 Suspension may be considered appropriate for the following reasons:-

- the integrity of the investigation may be undermined by the accused employee continuing to work with witnesses;

- in cases of alleged or suspected gross misconduct;
- it is thought that the continued presence of the employee within the workplace could create risks to the employer's property or the employer's responsibilities to other parties.

6.3 The period of suspension should be kept as brief as possible. An employee will continue to receive their normal salary during any period of suspension except when they notify the employer that they are on sick leave. In these circumstances the Statutory Sick Pay and Occupational Sick Pay Scheme will operate as normal.

6.4 The following advice with regard to suspensions in connection with allegations linked to children's safeguarding is given in the Department for Education's (DfE's) *Dealing with Allegations Guidance*. 'Suspension must not be an automatic response when an allegation is reported. If the school is concerned about the welfare of other children in the community or the teacher's family, those concerns should be reported to the LADO or police but suspension is highly unlikely to be justified on the basis of such concerns alone. Suspension should only be considered in a case where there is cause to suspect a child or other children at the school is or are at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically, or without careful thought being given to the particular circumstances of the case.'

6.5 Schools should also consider whether the result that would be achieved by suspension could be obtained by alternative arrangements. For example, redeployment so that the individual does not have direct contact with the child concerned, or providing an assistant to be present when the individual has contact with children. This allows time for an informed decision regarding the suspension and possibly reducing the initial impact of the allegation. This will however, depend upon the nature of the allegation.

6.6 Schools should consider the potential permanent professional reputational damage to teachers that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.

6.7 Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within **one working day**, giving the reasons for the suspension. The person should be informed at that point who their named contact is within the organisation and provided with their contact details.'

7. THE DISCIPLINARY INVESTIGATION

7.1 Where following the Initial Meeting with the employee it is considered that further investigation is required to establish the facts, the advice of the HR Advisory Service should be sought

7.2 Any investigation of a case should be carried out promptly by a competent, impartial person and without unnecessary delay.

7.3 The employee must be informed in writing of the outcome of the disciplinary investigation, either through notification of a Disciplinary Hearing or by separate letter confirming the conclusions reached.

7.4 If the allegation is safeguarding related, the Local Authority's Designated Officer for Allegations (DoFA) should be informed of the outcome of the investigation before a decision is taken on any action to be taken.

8. THE DISCIPLINARY HEARING

8.1 If following an investigation it is considered that there is a case to answer arrangements should be made to convene a Disciplinary Hearing which the employee will be required to attend. Any Disciplinary Hearing should be held within 20 days subject to the availability of all relevant parties and documentation and should also allow the employee reasonable time to prepare their case. If the employee and/or his/her representative is unable to attend on the date which has been arranged one other alternative date should be provided within 5 days of the original date (consultation with the employee and representative should ensure that the alternative date is suitable).

8.2 At least 10 days prior to the date of the Disciplinary Hearing the Headteacher or representative will write to the employee confirming the decision to convene a Disciplinary Hearing. This letter will:

- state the time, date and venue for the hearing;
- outline the composition of the Disciplinary Panel;
- outline the nature of the allegations to be considered at the hearing;
- inform the employee of their right to be accompanied by a trade union representative, official employed by a trade union or a colleague;
- inform the employee of the possible outcomes of the meeting;
- *in cases of potential gross misconduct* inform the employee that the outcome of the hearing may be dismissal;
- *in cases where the allegation is considered to be safeguarding related* that a possible outcome of the hearing is the recording of a substantiated safeguarding allegation on their file until they reach normal pension age or for a period of 10 years from the allegation if this is longer.

8.3 At least 10 working days prior to the date of the Disciplinary Hearing, the management representative presenting the case at hearing must provide the employee and the Governor Panel with hard copies of any supporting written documentation to be presented at the Disciplinary Hearing and confirmation of the names of any witnesses to be called. At least 5 working days prior to the date of the Disciplinary Hearing, the employee must provide the Management Presenting Officer and the Governor Panel with hard copies of any written documentation they intend to present in support of their case and confirmation of the names of any witnesses they intend to call. These timescales may be varied with the mutual agreement of all relevant parties, including the Chair of the Governor Panel.

8.4 A disciplinary panel will be comprised of Governors of the School and / or Academy Trust members (normally between 3 and 5 panel members). If an Academy Trust board member is not on the Panel, a representative of the Academy Trust has the right to attend in cases which may result in a decision to dismiss the employee.

8.5 A Protocol for Disciplinary Hearings is attached as **Appendix 2**. The allegations and evidence should be explained to the employee and the employee given a chance to ask any questions and the ability to present their own evidence.

9. POSSIBLE OUTCOME OF DISCIPLINARY HEARING - DISCIPLINARY SANCTIONS

9.1 The employee should be informed of the outcome of any Disciplinary Hearing in writing as soon as possible and within 5 days.

9.2 It may be that the outcome is that there is no case to answer.

9.3 The disciplinary sanction will depend on the seriousness of the misconduct, current warnings, previous employment record and/or relevant mitigating circumstances. Any sanction will also be appropriate to the circumstances of the case having due regard to the need for reasonableness and fairness.

9.4 Disciplinary sanctions will remain on file for a length of time that is considered appropriate in the circumstances. As a general guideline recorded verbal warnings will remain active on the employee's file for 6 months, first written warnings will remain active on the employee's file for 12 months and final written warnings for 2 years after which they will be removed and confidentially destroyed. The details of any substantiated safeguarding allegations must be kept on the employee's confidential personal file until the employee has reached their normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

9.6 Disciplinary sanctions

9.6.1 Please note that, in conjunction with any of the disciplinary sanctions listed below (apart from dismissal) the school can consider, where this is felt to be appropriate / useful, requiring the employee to attend a training/development course.

9.6.2 Disciplinary sanctions can include any of the following:

9.6.3 **Recorded verbal warning** – whilst such warnings are normally issued outside of a formal Disciplinary Hearing, it is still possible that a Panel may determine that the misconduct is not sufficiently serious to warrant a higher level of disciplinary sanction or the circumstances of the case may be such that the Panel accepts mitigation submitted by the employee and considers that this justified a lower level of disciplinary sanction.

9.6.4 **Written warning** – may be issued in cases where the employee’s misconduct is serious or where informal discussions have failed to achieve a satisfactory improvement in standard of conduct or there has been a further misconduct

9.6.5 **Final written warning** – may be issued for instances where the employee’s misconduct is serious but does not justify dismissal, or in cases of misconduct if the employee has a current disciplinary warning and further misconduct has occurred

9.6.6 **Dismissal** – Dismissal is appropriate where an act of gross misconduct has been committed or, in normal circumstances, where a final written warning is current. It is not usual for dismissal to be the outcome for a first offence other than in cases of gross misconduct (*dismissal on the grounds of gross misconduct will be without notice or payment in lieu of notice*)

9.7 In cases where the allegation is safeguarding related and the DfE’s *Managing Allegations* guidance is applicable, one of the following outcomes will need to be determined and confirmed with the employee:

Substantiated: there is sufficient evidence to prove the allegation

Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive

False: there is sufficient evidence to disprove the allegation

Unsubstantiated: there is insufficient evidence to either prove or disprove the allegation. (The Term does not imply guilt or innocence.)

Unfounded: to reflect cases where there is no evidence or proper basis which supports the allegation being made

10. APPEALS AGAINST DISCIPLINARY SANCTIONS

10.1 All employees have the right of appeal against formal recorded disciplinary warnings or dismissal. The appeal must be submitted by the employee in writing to the Headteacher (or CEO if the appeal relates to the Headteacher) within 10 working days of the date of the letter confirming the decision of the Disciplinary Panel. An appeal will be considered by a Governor Appeals Panel (normally 3 panel members) comprising of individuals who have not had any involvement in previous stages of the disciplinary process.

10.2 The appeal must include specific details of the reasons why the employee considers that the disciplinary sanction should be reviewed.

10.3 Appeal hearings will not normally be a re-run of the first hearing. Instead the Appeal Panel will consider the properness of the procedure leading up to the original hearing and/or the composition of the original panel and/or conduct of the original hearing and/or any new evidence provided and/or the appropriateness of the initial disciplinary sanction.

10.4 The appeal should be heard without unreasonable delay and within 20 days subject to availability of relevant parties and documentation and the employee should be informed of the outcome in writing. The model protocol for a Disciplinary Hearing may also be used for appeal hearings.

- 10.5 The decision of the Appeal Panel is final and no further internal appeal will be allowed.
- 10.6 In cases where an appeal against a dismissal is upheld and a decision is made to re-instate/re-engage, the employee shall suffer no loss under their previous contract of employment from the date of the dismissal up to the date of re-employment. Any payment in lieu of notice is to be taken into account in calculating any loss.

MISCELLANEOUS PROVISIONS

11. RECORDS

- 11.1 Records of Disciplinary Hearings and Disciplinary Appeal Hearings will be kept detailing:
- the nature of any allegations
 - the employee's defence or mitigation
 - the action taken and the reasons for it
 - whether an appeal was lodged, and its outcome
 - any subsequent developments.
- 11.2 These records will be kept confidential, used and retained in accordance with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.
- 11.3 Disciplinary sanctions will remain active on an employee's personal file for the period outlined in the written confirmation of the sanction. If the school receives a reference request during the period when a disciplinary sanction is still active this will be disclosed. If the applicant has been subject to disciplinary procedures involving issues related to the safety and welfare of children or young people, including any in which the disciplinary sanction has expired, this will be disclosed together with the outcome of the procedure. Details of any allegations or concerns that have been raised about the applicant that relate to the safety and welfare of children or young people or behaviour towards children or young people, and the outcome of those concerns e.g. whether the allegations or concerns were investigated, the conclusion reached, and how the matter was resolved will also be disclosed.
- 11.4 Confidentiality should be maintained during all stages and throughout the Disciplinary Procedure. This is to be done by ensuring that only those people who need to know through the course of their duties have access to the details of the case. Failure to comply with this requirement may lead to disciplinary action being taken through this Procedure.

12. ATTENDANCE AT MEETINGS

- 12.1 Employees are required to make all reasonable attempts to attend meetings and interviews convened under the Disciplinary Procedure. If it is not reasonable or practicable for an employee or their companion (see right to be accompanied) to attend a disciplinary meeting or interview, including the Disciplinary Hearing for a reason which was not foreseeable when the meeting/hearing was arranged, one further meeting/hearing will be arranged. Should the employee not attend a re-arranged meeting/hearing the meeting/hearing will normally continue and the allegations will be heard in the absence of

the employee. Employees will be offered the opportunity to be represented in their absence or make a written submission.

- 12.2 If an employee is absent from work due to sickness and the absence is expected to continue to the date of a Disciplinary Hearing, the Disciplinary Hearing may still take place. A decision will be made taking full account of any medical view provided by the employees GP and/ or the school's occupational health service provider.

13. RIGHT TO BE ACCOMPANIED

- 13.1 Employees who wish to be accompanied at meetings/hearings convened under the provisions of the Disciplinary Procedure have a right to be accompanied by a single companion who is either:

- a work colleague;
- a trade union or workplace representative or
- an officer employed by a trade union.

- 13.2 Employees may alter their choice of companion should they wish.

- 13.3 The single companion must not be a legal representative. The employee should provide enough time for the school to deal with the companion's attendance at the meeting and should inform their Headteacher (or the Headteacher's representative) whether their companion is a fellow worker or trade union official or representative (and of their name where possible) prior to any meeting. In making their choice the employee should bear in mind the practicalities of the arrangements.

- 13.4 If the chosen companion is a work colleague, the work colleague may refuse the request to be a companion, however, should they accept they will be given paid time off to prepare for and to attend meetings.

- 13.5 It will be the responsibility of the employee to contact and liaise with their chosen companion. If the employee's chosen companion will not be available at the time proposed for the meeting by the school, the school will postpone the hearing to a time proposed by the worker provided that the alternative time is both reasonable and not more than five working days after the date originally proposed. Should the chosen companion not be available the meeting will be re-arranged once only.

14. ACCESS TO INFORMATION BY EMPLOYEES

- 14.1 Employees who are absent from the workplace and who are the subject of disciplinary proceedings may themselves want to access information to form their defence against the allegations against them. Such requests will need to be put in writing to the Headteacher or representative, who will then arrange a convenient time and place for the employee to access the information required, providing that the request is reasonable.

- 14.2 Files/computers/laptops/mobile phones cannot be removed from school/council buildings, however copies of documents and print outs of e-mails, for example, may be provided if appropriate.

15. CRIMINAL CONDUCT

- 15.1 Employees are required to inform their Headteacher or representative in the event of being cautioned or arrested on suspicion of a criminal offence whether the offence is committed during the course of employment or outside employment. Failure to comply with this requirement may be regarded as gross misconduct and may lead to summary dismissal. Advice should be sought from the Human Resources Service where an employee is remanded in custody.

16. FINANCIAL IRREGULARITIES

- 16.1 The council's Internal Audit Service must be notified at the earliest opportunity where allegations of misconduct/criminal act concern financial irregularities. The Anti-Fraud and Corruption Policy may apply. Whether or not it does, the Disciplinary Procedure will be followed if the employee's conduct is found, upon investigation, to be unsatisfactory. In these circumstances, an internal audit may be carried out. The information gathered as part of an internal audit investigation may be used as evidence within the disciplinary proceedings.

17. PROTECTION OF VULNERABLE GROUPS

- 17.1 Where the alleged breach of discipline or management concern relates to any of the following circumstances the School must act in accordance with the guidance set out in paragraphs 17.2 and 17.3 immediately:

- behaved in a way that has harmed a child, or may have harmed a child or that has placed a vulnerable adult at risk of, or contributed to a vulnerable adult experiencing, abuse or neglect;
- possibly committed a criminal offence against or related to a child or a vulnerable adult; or
- behaved towards a child or children or a vulnerable adult or vulnerable adults in a way that indicates he or she would pose a risk of harm to children or vulnerable adults.

- 17.2 If the allegation or concern relates to any of the circumstances described in paragraph 17.1 **and involves a child (that is, someone under the age of 18)**, then:

- the Head teacher or safeguarding lead must in the first instance contact Social Care's Single Point of Contact on 01934 888808 at the earliest opportunity and
- the Allegations of Abuse procedure outlined within the DfE's *Keeping Children Safe in Education* guidance must be followed (this is available on the NSESP website or on the DfE website at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/447595/KCSIE_July_2015.pdf .

Immediate action may be required to protect the child from further harm. Otherwise no attempts should be made to investigate further before discussion with Social Care's Single Point of Access and, if required, the Designated Officer

for Allegations (DoFA) and the police should be consulted prior to any investigation if it is a potentially criminal matter.

17.3 Where the allegation relates to any of the circumstances described in paragraph 17.1 **but involves a vulnerable adult**, then:

- the Head teacher or Safeguarding Lead must in the first instance contact Care Connect on 01275 888801 at the earliest opportunity;
- the North Somerset Multi-Agency Adult Safeguarding Procedures must be followed (this Policy is available on the North Somerset Council website: [https://www.n-somerset.gov.uk/Social%20care/community_care/Documents/safeguarding%20adults%20procedures%20\(pdf\).pdf](https://www.n-somerset.gov.uk/Social%20care/community_care/Documents/safeguarding%20adults%20procedures%20(pdf).pdf))

Immediate action may be required to protect the vulnerable adult from further abuse or neglect. Otherwise no attempts should be made to investigate further before discussion with Care Connect and, if required, the Safeguarding Adults Manager and the police should be consulted prior to any investigation if it is a potentially criminal matter.

17.4 Where it is determined that the allegation should be treated as safeguarding related the and DfE's *Managing Allegations* guidance is being followed, the advice of the LA's Designated Officer for Allegations (DOFA) should be sought regarding when it is appropriate to notify the employee that this is the case.

17.5 Advice should also be sought from the HR Advisory Service at the earliest opportunity.

17.6 In these circumstances, in addition to any disciplinary action, consideration should be given to:-

- requesting an up to date check through the Disclosure and Barring Service (DBS) , or registering any concerns with the DBS (see the model *DBS referral Policy*); and
- where the employee is a teaching member of staff notification of the alleged misconduct/criminal act to the Department for Education or any successor body or authority.

18. EQUAL OPPORTUNITIES

18.1 Managers must not discriminate on the grounds of race, age, gender, disability, sexual orientation, religion or belief, gender reassignment, marriage and civil partnership, pregnancy and maternity, or other grounds when dealing with any matters under the school's Disciplinary Policy. Managers will also need to ensure that the needs of employees are given careful consideration when applying this policy.

19. OTHER RELEVANT POLICIES/DOCUMENTS

- Schools Model Disciplinary Policy - Guidance Notes
- Code of Conduct
- Health and Safety
- Attendance Management Policy
- Bullying & Harassment
- Probationary Policy

- Reference Policy
- Disclosure Policy
- DBS Referral Policy
- Social Media Networking Policy
- Allegations of Abuse Guidance
- DfE Keeping Children Safe in Education



*Chair of Trustees
Kaleidoscope Multi Academy Trust*

4/6/20

Appendix 1: MISCONDUCT AND GROSS MISCONDUCT – INDICATIVE EXAMPLES

It is important that employees are aware of the standards of conduct expected of them. The following lists provide a guide as to the type of conduct which is likely to be considered by (enter name of school) as misconduct and/or gross misconduct and which may lead to formal disciplinary action being taken.

Misconduct

Examples of offences which will be regarded as misconduct and will be fully investigated and considered at a Disciplinary Hearing include:

- strictly minor, first time breaches of children's safeguarding policies
- poor time keeping or lateness
- unauthorised absence from work
- time wasting
- minor safety offences
- unauthorised use of school facilities or systems e.g. telephone, internet
- disruptive behaviour
- contravention of the school's No Smoking Policy
- refusal or failure to carry out reasonable management instruction(s)
- inappropriate behaviour towards others (e.g. deliberate rudeness)
- disobedience of instructions (verbal or written)
- abuse of authority e.g. when an employee's conduct towards a fellow employee or a member of the public is threatening or abusive
- neglect of duty e.g. when an employee: -
 - without sufficient cause, fails to discharge the obligations which statute or contract of employment places on them
 - fails to report any matter which it is his/her duty to report
 - fails to make an entry which it is a duty to make, in any book or document
 - fails properly to account for, or to make a prompt return of, any money or property which comes into their possession in the course of their duties.
- deliberate falsehood e.g. when an employee knowingly or through neglect makes any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for the purposes of the school
- deliberate damage to school property
- corrupt or improper practice e.g. when an employee improperly uses, or attempts to use, their official position for their own private/personal advantage or for the private/personal advantage of some other person
- inappropriate disclosure of information e.g. when an employee without proper authority communicates to any person information which is given to him/her in confidence as an employee of the school
- misconduct in relation to official documents e.g. when an employee without sufficient cause destroys or mutilates any record or document made, kept or required for the purpose of the school, or alters or erases or adds to any entry in such a record or document
- being under the influence of alcohol or drugs
- conduct likely to offend decency
- sleeping on duty
- criminal conduct

- discrimination
- harassment/bullying
- being an accessory to a disciplinary offence
- wilful neglect of health.

(This list is indicative only and is not intended to be exhaustive).

Gross Misconduct

Examples of offences which will be regarded as gross misconduct and will be fully investigated and considered at a Disciplinary Hearing include:

- any serious breach of children's safeguarding regulations or policies
- fighting or physically assaulting a person
- violent, abusive or intimidating conduct
- serious acts of discrimination in breach of the school's Equality Policies, including acts of incitement or actual acts of discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation
- deliberate inappropriate use of the internet or the email systems
- serious bullying or harassment
- serious breach of the school's rules relating to electronic systems, computers, mobile phones and other similar equipment
- serious instances of inappropriate behaviour towards others
- failure to comply with relevant statutory or regulatory requirements
- sexual misconduct at work
- serious incapability through being under the influence of drugs or alcohol
- serious infringement of health and safety rules
- serious negligence which causes unacceptable loss, damage or injury
- rudeness to students or parents or other members of the public
- deliberate damage to school property
- unauthorised removal of school property
- providing false sickness or absence information
- theft from the school, students, staff or the public, and any other act of dishonesty
- reckless or serious misuse of a school vehicle
- falsification of qualifications which are a stated requirement of employment or which resulted in financial gain
- theft, fraud, deliberate falsification of records
- accepting a gift which could be construed as a bribe
- bringing the school into serious disrepute
- malicious damage to school property/equipment
- misuse of the school's property, equipment or name
- serious breach of the Data Protection Act 1998
- failure to inform your manager in the event of being cautioned or arrested on suspicion of a criminal offence
- being imprisoned for a serious criminal offence while an employee of the school.

(This list is indicative only and is not intended to be exhaustive).

Employees should be aware that gross misconduct is misconduct which is serious enough to immediately destroy the relationship of mutual confidence and trust between the school and the employee. If an allegation of gross misconduct is upheld at a Disciplinary Hearing, the result will normally be summary dismissal without notice or payment in lieu of notice.

All our policies and guidance can be found at <http://www.supportservicesforeducation.co.uk>

Appendix 2: Protocol for Staff Disciplinary Hearings

Introduction

The Chairperson will:

- Introduce those people present
- Confirm the allegations to be considered
- Explain the way in which the hearing will be conducted

Presentation of Management's Evidence

The Investigating Officer will introduce evidence relevant to the disciplinary allegations. Any witnesses called by the Investigating Officer will be:

- Questioned by the Investigating Officer
- Questioned by the employee and his/her representative
- Questioned by the Disciplinary Panel
- Questioned by the Investigating Officer to clarify any particular points but not to introduce new evidence.

At the conclusion of the Investigating Officer's submission he/she may be questioned by the employee and his/her representative and by the Disciplinary Panel.

Employee's Response

The employee and or representative may respond to the allegations and may introduce evidence in their defence. Any witnesses called by the employee and/or representative will be:

- Questioned by the employee and his/her representative
- Questioned by the Investigating Officer
- Questioned by the Disciplinary Panel
- Questioned by the employee and/or representative to clarify any particular points but not to introduce new evidence.

At the conclusion of the employee's/representative's submission he/she may be questioned by the Investigating Officer and by the Disciplinary Panel.

Summing-Up

The Investigating officer will be asked to sum up his/her case but not to introduce new evidence.

The employee and/or representative will be asked to sum up his/her response but not to introduce new evidence.

Decision

The Disciplinary Panel will adjourn in order to consider the case before giving a decision. The Panel must consider all the facts and decide what action to take, bearing in mind all the relevant factors which will include the following:

- the gravity of the offence
- whether the employee is subject to any current disciplinary warnings/sanctions
- the employee's general record.
- the Council's Disciplinary Procedure in relation to the likely penalty as a result of the particular misconduct
- the consequences to the school of the particular misconduct
- the penalty imposed in similar cases in the past

Conclusion of Disciplinary Hearing

When a decision has been reached, the Chairperson will draw up a statement setting out the panels finding and decision. The disciplinary hearing will be reconvened and the employee and presenting officer informed of the panel's response to the evidence presented and the disciplinary sanction, if any, that is to be issued. Details of the appeals procedure will also be outlined.

All warnings and dismissals will be confirmed in a letter to the employee within 5 working days of the disciplinary hearing. The letter will state clearly:-

- The panel's conclusions in relation to the evidence presented.
- The nature and seriousness of any misconduct.
- The disciplinary sanction that is being issued, and where relevant any time limits involved.
- The standard of conduct expected in future and the likely consequences for the employee if this is not met.
- Any support to be provided by the to assist the employee .
- The way in which the employee may exercise his/her right of appeal against any disciplinary sanctions that has been issued.

DISCIPLINARY POLICY AND PROCEDURE – GUIDANCE FOR MANAGERS

1. INTRODUCTION

- 1.1 These notes are intended to complement the KMAT Disciplinary Policy and Procedure and to assist schools in the implementation of the procedure. The notes are intended for general guidance only and are not intended to restrict or prescribe management initiative and/ or flexibility. They do not provide a blue print for action to be taken in every situation however they will answer many of the more frequently asked questions which arise when using the procedure. They do not form part of the policy/procedure itself. Advice should be sought from the HR Advisory Service on Conducting Workplace Investigations.
- 1.2 The HR Advisory Service will ensure that the guidance provided within this document is regularly reviewed to ensure that it follows best practice and is compliant with relevant employment legislation.

2. MODEL LETTERS

- 2.1 Model letters for use within the procedure are provided by the HR Advisory Service within the *Toolkit of Letters for Managing a Disciplinary Process* (see **Appendix1**) and are recommended for use when writing to employees who are subject to disciplinary proceedings. These are as follows:-

- Letter convening Initial Meeting to discuss alleged misconduct issues
- Letter convening Management Meeting
- Letter confirming verbal warning
- Letter confirming to employee that their conduct is to be investigated under the Disciplinary procedure
- Letter confirming suspension from duty
- Letter convening Investigation Meeting with employee
- Letter convening Disciplinary Hearing
- Letter confirming first written warning
- Letter confirming final written warning
- Letter confirming dismissal with previous warnings
- Letter confirming dismissal without previous warnings
- Letter convening Disciplinary Appeals Hearing
- Letter confirming outcome of Disciplinary Appeals Hearing

- 2.2 A model Appeal Notification Form has also been provided.

3. USE OF THE DISCIPLINARY PROCEDURE

- 3.1 The aim of the Disciplinary Procedure is to help employees achieve and maintain a high level of conduct in relation to their employment and to provide a framework to ensure that if a problem does arise that it is handled fairly and consistently.
- 3.2 The procedure only forms one aspect of a school's approach towards maintaining high standards of conduct and in a sense is, in most instances, the last resort when all other

informal management measures have failed to effectively address the conduct issue. In many cases the right word at the right time may be all that is needed, and will often be a more satisfactory way of dealing with a breach of rules than a formal meeting. If day to day management is effective it is likely that unacceptable conduct will be identified and improved before it reaches the stage of more formal action being required.

3.3 It is therefore essential that before managers consider taking action through the Disciplinary Procedure they review their management of the conduct problem and in doing so ensure that the following aspects of effective management have been addressed:-

- standards of conduct are established and agreed and clearly communicated;
- regular supervision is in place;
- minor conduct issues are dealt with promptly and the employee encouraged to improve their conduct; and
- consistency in approach – apply the same rules and considerations in each case.

3.4 Any failure to ensure that these measures are in place has the potential to provide an employee with reasonable mitigation should the formal Disciplinary Procedure be invoked and may lead to increased timescales in unacceptable conduct being managed.

3.5 Note: The Disciplinary Procedure is only concerned with individual conduct. It is **not** intended to deal with capability issues related to poor performance or ill health. These issues are dealt with under separate HR procedures.

4. RECOGNISE GOOD CONDUCT

4.1 It is often the case that employers focus on those who have not yet met the standard and ignore those employees who are achieving or exceeding those standards. It is essential for staff morale and motivation that good conduct is recognised. In doing so it may be that good practice can be shared across the school.

5. BENEFITS OF AN EFFECTIVE DISCIPLINARY PROCEDURE

5.1 The Disciplinary Procedure provides a framework to:-

- ensure the encouragement of employees to achieve and maintain standards of conduct;
- ensure a fair and consistent method for dealing with alleged failures;
- remind managers and supervisors how disciplinary matters should be handled;
- minimise disagreements about disciplinary matters; and
- reduce the need for dismissals.

5.2 The lack of a procedure can be expensive leading to:-

- low morale and resistance to change;
- lowered efficiency;
- successful claims for unfair dismissal;
- complaints about breach of contract; and

- claims under anti-discrimination legislation.

6. LEGAL CONTEXT

- 6.1 Conduct is one of the five potentially fair reasons for dismissal under the Employment Rights Act (1996).
- 6.2 Employment Tribunals expect employers to act fair and reasonably in dismissing an employee. In order to ensure consistency and fair treatment of employees and to protect the school in the event of a claim proceeding to an Employment Tribunal, it is essential for the school to state the reason for dismissal and to follow a procedure compliant with the statutory minimum requirements.

7. RESPONSIBILITY FOR DISCIPLINE

7.1 Governors and Senior Leadership Team

- To be involved in setting standards of conduct and disciplinary rules for the school;
- To manage and oversee the implementation of the Disciplinary Policy and Procedure within the school with a view to ensuring consistency and fair treatment of individuals;
- To be exemplars of good management practice;
- To ensure that all relevant schools personnel are appropriately trained in the use of the Disciplinary Procedure; and
- To help promote a culture of encouragement when dealing with issues of unacceptable conduct and promote positive outcomes.

7.2 Line Managers/Supervisors

- To ensure that they provide a 'good' role model in respect of conduct;
- To attend relevant training provision on disciplinary handling;
- To ensure that clear standards of conduct are established in relation to the particular work area for which they have responsibility;
- To ensure that these standards are clearly communicated to their staff;
- To regularly review these standards to ensure that they continue to be relevant and/or appropriate;
- To seek advice and guidance where required, from the HR Advisory Service;
- To deal with minor issues of misconduct promptly through day to day management practice, formal supervision and appraisal;
- To keep written records of discussions held with employee's to address a conduct issue; and
- To ensure that where appropriate concerns regarding the conduct of an employee are referred up through the line management structure.

7.3 HR Advisory Service

- To regularly review the model schools Disciplinary Policy and Procedure to ensure it is compliant with employment legislation and good practice;
- To record and monitor the outcome of Disciplinary Hearings;
- To ensure that any changes to the model procedure or policy are clearly communicated to schools so that schools can inform all staff within the school;
- To assist in the training of Head teachers and Governors in the use of the Disciplinary Procedure;
- To provide advice and practical guidance to Head teachers and Governors on the application of the Disciplinary Procedure.
- To provide advice and guidance to Headteachers and Governors in conducting disciplinary investigations; and
- To advise at Disciplinary Hearing and appeal panels to ensure that proceedings conducted in accordance with procedure.

7.4 Employees and their Representatives

- To ensure that the highest standard of conduct are maintained at all times;
- To ensure that they raise with their line manager where they are unclear as to the standards of conduct required;
- To ensure all reasonable steps to improve their standards of conduct are taken where it is identified that improvement is required; and
- To ensure attendance at disciplinary meetings.

8. RESOLUTION OF MINOR MISCONDUCT ISSUES

- 8.1 Where it is considered that the issues of concern are relatively minor in nature often an informal discussion with the employee can resolve matters. The objective of these discussions will be to effectively manage any minor breaches in discipline at an informal level through two way dialogue between manager and employee. The manager will therefore need to be clear with the employee as to the nature of his/her concerns regarding the employee's conduct, the information on which these concerns are based and the standards required. The employee should be given the opportunity to respond to the concerns being raised and to challenge the information upon which the manager has based those concerns. The manager should ensure that they discuss with the employee any support needs he/she may require assist him/her in meeting the standards required. It is important that any support agreed is followed up by the manager. Where this informal approach does not achieve sustained satisfactory level of conduct the continuing concerns should be addressed through the Disciplinary Procedure.

DISCIPLINARY PROCEDURE

9. THE INITIAL MEETING AND MANAGEMENT MEETING DISCUSSIONS

9.1 Practicalities

- 9.2 Whilst these meetings are not a 'Disciplinary Hearing' it is important that the employee is able to distinguish them from a routine supervision and therefore should be a more formally

constituted meeting than any previous informal arrangements put in place to discuss any conduct issue with the employee.

- 9.2 Since a verbal warning may be issued as a result of the Management Meeting reasonable notice should be given of the Management Meeting and the employee must also be informed of his/her right to be accompanied for support at the meeting by a trade union representative, an official employed by a trade union or a fellow worker. If the employee and/or his/her representative is unable to attend on the date which has been arranged one other alternative date should be provided that is not more than five working days after the date originally proposed (consultation with the employee and representative should ensure that the alternative date is suitable).
- 9.3 In the case of the Management Meeting and where possible in the case of the Initial Meeting, the employee should be given an indication of the nature of the concerns to be discussed so that he/she can prepare for the meeting. This approach:
- helps generate a less inhibited and more positive discussion;
 - increases the potential for the employee to be more actively involved in the meeting; and
 - is likely to reduce defensive behaviour.
- 9.4 Adequate time should be set aside for the meeting which should be kept free from interruptions.

10. INITIAL MEETING: ESTABLISH WHY THERE IS A PROBLEM

- 10.1 You should start the discussion with a clear explanation as to where the employee is failing to achieve the required standards of conduct.
- 10.2 The first aim of the discussion should be for you as the line manager to ascertain from the employee the facts that have contributed to the conduct problem. When you are seeking reasons for shortfalls try not to attach blame. This will only serve to create a negative atmosphere which will not be conducive to ensuring that the employee feels 'safe' to discuss the reasons why their conduct is not satisfactory.
- 10.3 Through discussion it may be established that:-
- The standards of conduct have not been effectively communicated to the employee and the employee did not fully understand/know what was expected. Where this is the case action should be taken by the manager to ensure that the employee is aware of and understands what is expected;
 - The conduct problem relates to the employee's personal life. Where this is the case the manager should seek to identify with the employee what action is required and by whom in order to enable the employee to reach an acceptable standard of conduct. In addition the provision of counselling may be appropriate and should be discussed with the employee; or
 - The conduct problem is caused by factor(s) related to capability such as health problems, lack of training etc. In these circumstances advice should be sought from the HR Advisory Service on the correct procedure to be applied.

- The conduct problems appear to be related to negligence or an attitudinal problem. In these circumstances it may be appropriate to convene a Management Meeting to consider whether to issue a verbal warning or alternatively to initiate a full investigation into the employee's alleged misconduct. In these circumstances advice should be sought from the HR Advisory Service.

11. ESTABLISH THE ACTION REQUIRED

11.1 Having established the facts at the Initial Meeting you will need to decide whether any further action is required. If it is decided that no action is justified following either the Initial Meeting (or subsequently at the Management Meeting) this should be confirmed to the employee in writing.

11.2 If it is established that the employee's conduct does fall short of the standards required you will need to decide what action is required. Please see the Disciplinary Policy for the possible actions following the Initial meeting and following the Management Meeting.

11.3 Action may be aimed at one of the following:-

- Changing behaviour – this may be fairly straightforward providing that the employee accepts and recognises that the need for some change in his/her behaviour. The challenge arises when this is not the case. In these circumstances the employee will need to be presented with examples of his/her behaviour which you as the manager consider to be unacceptable. You should seek to demonstrate why the behaviour is unacceptable, for example, the behaviour or conduct may be in breach of the school's Disciplinary Code/Standards, or may adversely be affecting work colleagues;
- Changing attitudes – this may be more difficult than changing behaviour as attitudes tend to be deeply rooted. It is often more effective to change behaviour first and encourage attitudes to change thereafter; or
- Clarifying expectations – it may be that the employee was not aware of the standards of conduct expected. In these circumstances it is important that action is taken to address this. This may either take the form of verbal communication of the appropriate standards or confirmation of standards in writing or both. It may also require wider communication than just the employee where it is identified that the lack of knowledge is shared by the employee's work colleagues.

12. RECORDING THE DISCUSSION

12.2 Whatever action you decide is appropriate it is important that this is communicated to the employee in writing. The discussions held at the Initial meeting and / or the Management Meeting may need to be relied upon within the Disciplinary Procedure in the event of the employee not meeting the required standards. It is important therefore to keep a record of those matters discussed and the outcomes reached. Any such records should be stored securely by the manager along with the employee's supervision/appraisal record. To

ensure that there is no confusion the manager should write to the employee confirming his/her decision following consideration of those matters discussed.

13. IS THE DISCIPLINARY PROCEDURE THE APPROPRIATE PROCEDURE?

- 13.1 In many instances it will be clear that the conduct issue to be addressed is such that the Disciplinary Procedure is the correct procedure to use. However, in some instances it may be that through discussion with the employee, you consider that action is not appropriate under the Disciplinary Procedure. For example, it may transpire that an employee who is regularly late for work (conduct issue) has problems at home which are affecting his/her ability to get to work on time and consequently is affecting his/her ability to do their job to the required standard.
- 13.2 Clearly some management action is required to address this problem however in these circumstances, it may not be appropriate to follow a disciplinary route in the first instance because the problem is not one of 'won't do'; rather it is one of 'can't do' for reasons which may be beyond the control of the employee. Appropriate action in these circumstances would include discussion between the manager and employee as to what the employer is able to agree in order to assist the employee in eventually being able to return to an acceptable level of timekeeping within acceptable timescales. Follow up action under the disciplinary procedure may be required should the employee fail to achieve the required improvement in his/her timekeeping within the agreed timescales.
- 13.3 If at any time you are of the view that the Disciplinary Procedure is not the correct procedure and you wish to check this view out further, the HR Advisory Service can provide objective advice in these circumstances.
- 13.4 Where it is determined that the Disciplinary Procedure is not the correct procedure action should be taken without delay to ensure that all relevant parties i.e. the employee and his/her representative is informed and arrangements made to progress the matter under the correct procedure.

14 SUSPENSION

- 14.1 The suspension of an employee should only be considered in specific circumstances which are outlined within the school's Disciplinary Policy and Procedure.
- 14.2 Suspension should only be used responsibly and with regard to the impact on the employee and the service within which the employee works. Redeployment to another area of work or restrictive duties until the investigation has been completed may be considered as an alternative to suspension.
- 14.3 Where suspension is used the employee must be informed that his/her suspension is not a disciplinary sanction nor is it in any way an indication that the allegations(s) of misconduct are proven.

15. CARRYING OUT A SUSPENSION

15.1 [**Community and Voluntary Controlled Schools**] Consideration should be given at the earliest opportunity by the employee's line management as to whether it is appropriate for the employee to remain at work whilst the disciplinary investigation is taking place. Prior to suspending an employee the HR Advisory Service must be consulted to ensure that suspension is an appropriate course of action.

[**Foundation Trust, Voluntary Aided Schools and Academies**] Consideration should be given at the earliest opportunity by the employee's line management as to whether it is appropriate for the employee to remain at work whilst the disciplinary investigation is taking place. Prior to suspending an employee, the HR Advisory Service / school's HR service provider will, by agreement of the Governing Body / Trust, be consulted to ensure that suspension is an appropriate course of action.

15.2 A suspension will normally be carried out by the Headteacher. Support in carrying out a suspension may be requested from the HR Advisory Service.

15.3 At the time of being suspended the employee will be informed of the allegation(s) of misconduct against him/her and the conditions of the suspension. This will be confirmed in writing to the employee by the Headteacher and either hand delivered to the employee at the time of the suspension or sent recorded delivery within one working day following the suspension. The person should be informed at that point who their named contact is within the organisation and provided with their contact details.

15.4 It is not good practice to allow a suspension to continue for any longer than is absolutely necessary to enable the completion of the investigation and to make arrangements, where applicable, for a Disciplinary Hearing. The length of the suspension period may be the subject of a challenge both within internal proceedings and at an Employment Tribunal hearing, and therefore it is important to ensure that the length of suspension is reasonable based on the facts of the case. **See Paragraphs 6.2 to 6.8 in the Disciplinary Policy** Where a suspension is paid for centrally the school must provide HR Advisory Service and the Commissioning, Contracts and Funding team with an approximate length of time that they expect the suspension to last. **See Paragraph 6.4 in the Disciplinary Policy**

15.5 A suspended employee will be required to co-operate with the investigation and is expected to be available throughout the suspension period to attend any interviews. Should a suspended employee subsequently go on sick leave, a referral to Occupational Health may be made in order to establish whether there are any underlying medical reasons which should be taken into consideration when requiring the attendance of the employee at an investigatory meeting.

16. DISCIPLINARY INVESTIGATION

16.1 General

16.2 In cases involving more serious concerns regarding an employee's conduct it may be necessary to carry out a full investigation to establish facts and therefore inform what management action is appropriate to address the misconduct. The employer should not act against an employee on the grounds of mere suspicion; he must have **genuine belief** that the employee has fallen short of the standards of conduct required. This belief must be based on **reasonable grounds**. Insufficient investigation can lead to a finding of unfair

dismissal by an Employment Tribunal. Advice should be sought from the HR Advisory Service on Conducting Workplace Investigations.

17. DISCIPLINARY HEARING

17.1 Guidance to Headteacher/Governors Chairing a Disciplinary Hearing

17.2 Composition of Disciplinary Panel

The panel will normally be made up of between three and five Governors. The Chairperson will be responsible for the proper conduct of the hearing and for ensuring that sufficient information is available for the panel to reach a decision. The panel members will not have previously investigated the allegation/complaint or have any direct interest in the outcome of the proceedings. The seriousness of the allegation(s) and the grade of the employee who is the subject of the allegation(s) will determine the panel composition.

17.3 Disciplinary Hearings are difficult and stressful for all concerned and it is the responsibility of the officer chairing a hearing to ensure that it is managed expediently and as smoothly as possible.

17.4 In some cases, particularly harassment cases, monitoring and controlling proceedings is essential to protect against further harassment, intimidation and the unnecessary heightening of emotions.

18. PREPARATION BEFORE THE HEARING

18.1 Before the hearing it is necessary to ensure that the following facilities have been arranged:-

- suitable venue for the meeting (ensure that any special requirements of those persons who will be required to attend the hearing are catered for where it is reasonably practical to do so);
- arrange separate waiting rooms , wherever possible, for the separate parties i.e. the employee and his/her representative and witnesses and the presenting officer and witnesses;
- organise refreshments/tissues;
- ensure adequate and sensitive seating arrangements e.g. separating witnesses from the employee who is the subject of the hearing – not sitting them directly facing;
- ensure that the hearing is kept free from interruptions, noise and that the usual requirements for confidentiality are catered for; and
- ensure that a note taker has been identified to attend the hearing. The note taker will take no part in the hearing and must leave when the panel is making its deliberations concerning the outcome of the hearing. The note taker should be asked to return to record the panel's decision once it has been made.

18.2 Protocol for Disciplinary Hearing

Details of the protocol are attached to the model Disciplinary Policy and Procedure. A summary of the protocol is as follows:

- Introduction by Chairperson
- Presentation of management submission including attendance of management witnesses
- Questioning of management witnesses
- Employee's response including attendance of employee witnesses
- Questioning of employee's witnesses
- Summing-up by both presenting officer and employee
- Decision

18.3 During the Hearing

18.4 The Chairperson must outline the procedure for presenting information/evidence to the hearing. He/she must ensure that the Disciplinary Hearing Protocol is followed and that the proceedings are conducted in a calm and dignified manner.

18.5 Interrupting proceedings to bring them back in line with agreed protocol may be necessary in circumstances where, for example:

- One party is interrupting the other or speaking out of turn
- The proceedings have turned into a debate between the two parties
- During cross examination of witnesses and/or the other party's submission either party intentionally or unintentionally commences to present their own submission rather than ask questions of the other.

18.6 Other circumstances in which the Chairperson should intervene include:

- When questions asked are irrelevant, inappropriate e.g. personal or discriminatory.
- When the tone in questioning is inappropriate e.g. threatening, intimidatory, aggressive
- When leading questions are asked at inappropriate times
- When questioning is unnecessarily persistent
- When questioning is lengthy or intense and a break is required
- When witnesses appear to be getting anxious, emotional, upset and may be unable to continue.

18.7 It is important to remember that cross-examination of witnesses is supposed to be a process whereby facts can be established. It is not appropriate for a witness to be cross examined in a way that will cause unnecessary distress or duress; questioning designed to 'trip up' a witness on irrelevant detail should also not be allowed.

18.8 In harassment cases it is particularly important that areas of questioning are appropriate. For example in cases of sexual harassment it should not be necessary to question the complainant about their code of dress or manner of behaviour or otherwise in a manner which makes assumptions that they may have been acting in a way that provoked the individual(s). If it is alleged that the complainant encouraged the employee being

disciplined in some particular way then questions should focus specifically on those points only.

18.9 *N.B Ensuring short breaks during the hearing is advisable, not least for panel members who have to absorb a significant amount of information.*

19. THE ADJOURNMENT/DECISION

19.1 It is generally good practice to adjourn before a decision is taken about whether a disciplinary sanction is appropriate. This allows time for proper consideration and reflection. It also allows time for further checking of any matters raised, particularly if there is any dispute over facts. If new facts emerge then consideration should be made as to whether it is necessary to re-convene the hearing.

19.2 The process of deliberation should take into account the following matters:

- Is there sufficient evidence to substantiate some or all of the allegation(s) made against the employee? The test to be applied is one of 'probability' rather than the criminal law test of 'beyond all reasonable doubt'.
- How serious is the misconduct? What does the schools Disciplinary Code state is the level of sanction that is likely to be imposed as a result of the particular misconduct?
- What level of penalty has been imposed in similar cases in the past?
- Are there any mitigating circumstances that ought to be taken into account when determining the appropriate level of sanction?
- Check the employee's previous disciplinary record, general work record, work experience, position and length of service.
- Is the sanction to be imposed reasonable in view of all the circumstances?

19.3 In reaching their decision the disciplinary panel should be clear about the basis upon which their decision has been reached. In reaching their decision it may be that the disciplinary panel also form a view on associated matters such as follow up training to be provided, supervision, communication of standards etc.

19.4 Where the employee subject to the hearing has been suspended consideration will also need to be given to his/her return to work and how this will be managed. Similarly where a decision to dismiss has been made consideration will need to be given to the practicalities of implementing this decision.

19.5 On reaching a decision the disciplinary panel will prepare a statement outlining the panel's decision. The hearing will then be reconvened and the Chairperson will read the statement. This statement can later be used to form the basis of the letter sent to the employee confirming the outcome of the hearing.

19.6 Given the anxiety and pressure induced by disciplinary proceedings it is good practice for the Chairperson to thank those who have participated in the proceedings.

19.7 *N.B In all cases where a formal recorded disciplinary warning or dismissal is imposed the employee should be informed of their right of appeal.*

- 19.8 Following on from the hearing the disciplinary panel may wish to provide feedback to certain managers, for example, in relation to management practice, supervision arrangements, training etc. Where the panel has recommended certain action such as training, counselling, arrangements need to be made to ensure that these requirements are implemented by the relevant line manager.
- 19.9 The Chairperson of the Disciplinary Panel is responsible for writing to the employee following the hearing setting out the following information:
- The outcome of the Hearing
 - The nature of any misconduct found to be proven
 - Confirmation of any disciplinary sanction imposed
 - The period of time given for improvement and the improvement expected
 - Any support the school will provide to assist the employee
 - The likely consequences of further misconduct
 - (Where a written warning or dismissal has been imposed as the sanction) the timescale for lodging an appeal and how it should be made
- 19.10 The HR Adviser to the Panel, where present, will be able to provide assistance should this be required.

20. DELAYS AND COMPLICATIONS

- 20.1 Unfortunately given the sensitivities around disciplinary proceedings it is possible for hearings to be disrupted at short notice with for example a witness not showing up, or one party walking out of the hearing because emotions are running high. Fine judgments are often necessary in such situations to ensure that the need for fairness and compliance with procedure are balanced with the need for the particular misconduct issue to be addressed within a reasonable timescale.
- 20.2 Whilst new evidence should not emerge during a Disciplinary Hearing, if it does and it is considered relevant it may be appropriate to suspend the hearing for a short period so that the new information presented can be carefully considered.

21. RECORD KEEPING

- 21.1 Notes should taken at the hearing to ensure:-
- sufficient information is available to prepare the outcome letter to the employee; and
 - the availability of a record of the evidence considered and the decision reached by the panel for future use should the situation deteriorate further (possibly resulting in an unfair dismissal claim being heard at an Employment Tribunal).
- 21.2 The following checklist should assist in ensuring that the notes taken will satisfy both their requirements:
1. The date, venue and start time of the hearing
 2. An account of those attending and their roles

3. Details of the allegations stated to the employee and of the supporting evidence e.g. witness statements
4. Details of the employee's response and of the supporting evidence
5. A record of any adjournments, the reasons and approximate timings
6. Consideration of the employee's previous record
7. The decision on whether disciplinary action was appropriate or not, and the type of action taken and the appropriate timescale
8. The review date and a clear statement of intent if improvement does not occur
9. Reference to the right of appeal (where written warning or dismissal imposed) and the finish time of the hearing
10. Reference to the note-taker's name plus a date and signature

22. ARRANGEMENTS FOR APPEAL

- 22.1 The school will seek to identify a convenient date for all relevant parties to the appeal hearing.

23. CONDUCT OF APPEAL

- 23.1 The arrangements for the appeal to be heard will vary according to the basis on which the appeal is lodged by the employee. Appeals will not be heard by anyone involved in the original disciplinary proceedings.
- 23.2 The appeal hearing will be conducted in accordance with the protocol set out for a Disciplinary Hearing, however the employee and/or his/her representative will present the employee's submission in the first instance. The exception to this is where the grounds for appeal are on new evidence coming to light in which case will be re-heard by the original disciplinary panel, with the normal Disciplinary Hearing protocol being applied.
- 23.3 The Chairperson of the original Disciplinary Hearing will normally act as the 'management presenting officer' at the appeals hearing.

24. RANGE OF POSSIBLE OUTCOMES OF APPEAL HEARING

- 24.1 The persons hearing the appeal will have the authority to:
- dismiss the appeal and uphold the original decision of the disciplinary panel;
 - reduce the level of sanction; or
 - allow the appeal and overturn the original decision of the disciplinary panel.
- 24.2 The persons hearing the appeal **do not** have the authority to increase the level of disciplinary sanction. In cases where it is considered by the Appeals Panel that a higher level of sanction would have been appropriate the case must be referred back to the original disciplinary panel and the case be re-heard. In such cases the employee will be able to lodge a further appeal against the outcome of the re-hearing of the case.

25. THE RIGHT TO BE ACCOMPANIED

- 25.1 Employees have a statutory right to be accompanied by a fellow worker, trade union representative or official employed by a trade union where they are required or invited by their employer to attend certain disciplinary meetings (meetings at which a decision regarding disciplinary action may be taken).
- 25.2 The model Disciplinary Procedure extends this statutory right to certain other meetings e.g. investigative interviews and clearly states when it is necessary to provide an employee with this right. If the school fails to comply with a reasonable request to be accompanied the employee may present a complaint to an Employment Tribunal.
- 25.3 When employees are choosing their companion they should bear in mind:
- their request to be accompanied should be reasonable and
 - the practicalities of the arrangements for the meeting.
- 25.4 A fellow worker who has agreed to accompany a colleague is entitled to take reasonable time off with pay to fulfil that responsibility. This should cover time off to attend any disciplinary meetings and also time off to familiarise themselves with the case

25.5 Applying the right

Where possible, in arranging a meeting under the Disciplinary Procedure you should allow the employee's chosen companion a say in the date/time of the meeting. This will avoid dates being set which, later prove to be inconvenient for the other parties involved.

- 25.6 If the employee's chosen companion will not be available at the time proposed for the hearing by the school, the school must postpone the meeting to a time proposed by the employee provided that the alternative time is both reasonable and not more than five working days after the date originally proposed. Whilst there is no statutory or contractual obligation to require you to provide the employee with a third date you should ensure that your response in these circumstances is reasonable.

26. ROLE OF CHOSEN COMPANION

26.1 Disciplinary Investigation Interview

There is not legal right to be accompanied at a disciplinary investigation meeting as this is not a Disciplinary Hearing rather it is a meeting to gather information and to establish facts.

- 26.2 The model Disciplinary Procedure however does provide an employee with the right to be 'accompanied' (not 'represented') at a disciplinary investigation interview.
- 26.3 What this means is that the chosen companion is in attendance to 'support' the employee. This support will take the form of ensuring that the proceedings are conducted fairly and in

accordance with procedure and also providing emotional support to the employee. The role of the chosen companion at an investigation interview is not to answer questions of behalf of the employee.

26.4 Where requested by either the employee or chosen companion, reasonable time should be granted if they need to confer at any stage during the interview.

27. Disciplinary Hearing and Disciplinary Appeal Hearing

27.1 The right to be accompanied at a Disciplinary Hearing and appeal hearing is established by law and the role of the chosen companion at Disciplinary Hearings is to 'represent' the employee and in doing so to speak on their behalf.

27.2 You should allow the employee's chosen companion to address a Disciplinary Hearing in order to:

- put the employee's case;
- sum up the employee's case; and
- respond on the employee's behalf to any view expressed at the meeting.

27.3 The chosen companion should also be able to confer with the employee during the meeting. The chosen companion does **not** have a right to answer questions on the employee's behalf, or address the meeting if the employee does not wish them to, or to prevent the school from presenting the employer's case.

28. EMPLOYEES ON SICK LEAVE

28.1 If the employee is on sick leave at any point during the Disciplinary Procedure this should not significantly delay its implementation. If a meeting under the Procedure is due to take place, the relevant manager should have an initial conversation with the employee to establish whether they are likely to be well enough to attend the meeting. If they are, they should be given the opportunity to attend the meeting and, where applicable, the required notice of the meeting. If it is determined they are not fit to attend the meeting (or should they choose not to attend the meeting), they should be given the opportunity to make their representations in writing. In certain circumstances it may be advisable to refer the employee to the school's occupational health provider in order to establish their fitness to engage with the Procedure.

29. KEEPING RECORDS

29.1 Following the completion of the Disciplinary Procedure all spare copies of disciplinary papers should be confidentially destroyed with a master copy being retained by the school for the currency of the disciplinary sanction. The exception to this is where the misconduct relates to a children's or vulnerable adults safeguarding issue in which case records should be kept until the employee's normal retirement age or for 10 years whichever is longer.

29.2 The General Data Protection Regulation (GDPR) and the Data Protection Act 2018 has implications for any records kept as part of the Disciplinary Procedure.

29.3 Records kept must be relevant, accurate, confidential and secure and in accordance with the provisions of the GDPR and the Data Protection Act 2018.

30. CONFIDENTIALITY

30.1 Confidentiality should be maintained during all stages of the Disciplinary Procedure. This is to be done by ensuring that only people who need to know have access to the details of the case. Other staff should not normally be informed of a disciplinary process unless they are required to be interviewed as part of that process and/or there is an effect on day to day working relationships. If it is considered necessary to inform other staff that of a disciplinary process, then no details of the case should normally be discussed. In this situation the views of the employee who is the subject of the disciplinary process should be sought in relation to the information which is conveyed to other staff.

30.2 All papers relating to disciplinary matters must be marked private and confidential and kept securely.

30.3 All staff involved in a disciplinary matter should ensure that confidentiality is maintained at all times. A breach of this requirement may lead to disciplinary action.

31. ANNUAL LEAVE

31.1 Reasonable consideration will be given to annual leave requests made by an employee subject to disciplinary proceedings or by a potential witness in any such proceedings whilst ensuring the employee's/witness' availability to attend meetings as required.

32. EMPLOYMENT REFERENCES

32.1 Any current disciplinary proceedings and sanctions may be referred to in the provision of an employment reference. Managers should refer to the model Reference Policy and/or seek advice from the HR Advisory Service when providing a reference in these circumstances. If the applicant has been subject to disciplinary procedures involving issues related to the safety and welfare of children or young people, including any in which the disciplinary sanction has expired, this may be referred to together with the outcome of the procedure. Details of any allegations or concerns that have been raised about the applicant that relate to the safety and welfare of children or young people or behaviour towards children or young people, and the outcome of those concerns e.g. whether the allegations or concerns were investigated, the conclusion reached, and how the matter was resolved may also be disclosed. Again, Managers should refer to the model Reference Policy and/or seek advice from the HR Advisory Service when providing a reference in these circumstances.

For further advice and guidance on the Disciplinary Procedure please contact a member of the HR Advisory Service.

Disciplinary Procedure - Guidance
Model Letter A - Invitation to an Initial Meeting

Using this document

This letter may be used to notify an employee that they are to attend the initial meeting under the Disciplinary Policy. The letter convening an initial meeting will be issued by the employee/s line manager.

[Title and full name of employee]

[Address 1]

[Address 2]

[Address 3]

[Day] [Month] [Year]

Dear [Title and surname of employee]

I am writing to tell you that you are required to attend an initial meeting with me on [*insert date*] at [*insert time*], which is to be held [in/at] [*insert location*]. [*Name*] will be present to take notes of the meeting.

The meeting is being arranged under the Disciplinary Policy. However, it is not a disciplinary hearing.

The purpose of the meeting is to:

- discuss with you and provide you with the opportunity to respond to [**concerns regarding your conduct / *concerns regarding an incident / *an allegation regarding your conduct *include appropriate wording*] and
- on the basis of this decide what appropriate action, if any, should be taken.

The [**conduct / *incident / *allegation *include appropriate wording*] referred to above is [*insert details of potential disciplinary matters*].

The outcomes of this meeting could be:

- to drop the matter with no further action required;
- to hold a further 'Management Meeting' to determine whether changes to management practices or procedures and /or further management support or the issuing of a verbal warning are appropriate
- to fully investigate your alleged misconduct under the provisions of the Disciplinary Procedure;
- if the decision is to fully investigate, to suspend you pending the outcome of the disciplinary investigation process; or
- to refer the matter for consideration under the Appraisal and Capability Policy.

The outcome of the meeting will be communicated to you in writing within five working days of the meeting.

If you have any queries regarding the arrangements for this meeting please do not hesitate to contact me.

Yours sincerely

[First name] [Last name] [Job title]

[Job title]

-

Disciplinary Procedure - Guidance

Model Letter B - Invitation to a Management Meeting

Using this document

This model letter should be used to notify an employee that they are to attend a management meeting. The letter convening a management meeting will be issued by the employee/s line manager.

Notes

- **Employee to be provided with reasonable notice *if the meeting may result in the issuing of a verbal warning***

[Title and full name of employee required to attend management meeting]

[Address 1]

[Address 2]

[Address 3]

[Day] [Month] [Year]

Dear [Title and surname of employee]

Following my initial meeting with you, I am writing to tell you that you are required to attend a management meeting with me on [insert date] at [insert time], which is to be held [in/at] [insert location]. [Name] will be present to take notes of the meeting.

The meeting is being arranged under the Disciplinary Policy. However, it is not a disciplinary hearing. The meeting is being convened following - and as the outcome of – the holding of an initial meeting under the Disciplinary Policy.

At this initial meeting [*concerns regarding your conduct / *concerns regarding an incident / *an allegation regarding your conduct *include appropriate wording] were discussed with you and you were given an opportunity to respond to those concerns.

The [*conduct / *incident / *allegation *include appropriate wording] referred to above is [insert details of potential disciplinary matters].

The purpose of the management meeting is to further discuss [*the school's concerns regarding your conduct / *the school's concerns regarding the incident / *the allegation regarding your conduct *include appropriate wording] and to determine whether it is appropriate:

- to drop the matter with no further action being taken
- to take no action against you but to change management practices or procedures and / or to provide management support / further management support for you
- to deal with the matter in consultation with you (which could involve issuing a recorded verbal warning to you)

You are advised that if, as an outcome of this meeting, you are issued with verbal notice that you are to improve your conduct, failure to make the required improvement in your conduct could lead to formal disciplinary action being taken against you.

You are entitled, if you wish, to be accompanied by a fellow worker or your trade union representative for support. If you choose to be supported can you please let me know the name and status of your representative either by contacting me by telephone or e-mail or by letter (contact details as above). I enclose an additional copy of this letter to provide to your representative should you wish.

Please can you confirm that you and your representative are able to attend on the date which has been arranged. If you and/or your representative are unable to attend on the date which has been arranged one other alternative date will be provided not more than five working days after the hearing date stated in this letter.

The outcome of the meeting will be communicated to you in writing within five working days of the meeting.

Include if not already shared A copy of the Disciplinary Policy is attached for your reference.

If you have any queries regarding the arrangements for this meeting please do not hesitate to contact me.

Yours sincerely

[First name] [Last name] [Job title]
[Job title]

Enclosures:

- Copy of letter for representative
- Copy of Disciplinary Policy [***only if not already shared***]

Disciplinary Procedure - Guidance

Model Letter C - Confirmation of Verbal Request to Improve Conduct (Verbal Warning)

Using this document

The document should be used when confirming a verbal request for the need to improve conduct given at a management meeting. A management meeting will normally follow where there has been no improvement in an employee's conduct following previous informal management action.

The aim of giving such improvement notices is to try to help and encourage improvement amongst employees whose conduct is unsatisfactory.

Notes

1. Letter to be issued within 5 working days of date of management meeting
2. Copy to be retained in employee's personnel file for a period of no longer than 6 months

[Title and full name of employee who attended the management meeting]

[Address 1]

[Address 2]

[Address 3]

[Postcode]

[Day] [Month] [Year]

Dear [Title and surname of employee]

You attended a management meeting on [*insert date*] to discuss management concerns regarding your conduct and to identify the reasons for the shortfall. As agreed I am writing to confirm outcome of our meeting at which you were accompanied by (***enter name and status i.e. Trade Union representative/work colleague***).

The nature of the unacceptable conduct we discussed was (***insert details of employee's conduct giving concerns***).

You were given the opportunity to state your reason(s) for the shortfall in your conduct and to provide any mitigating reasons which you consider should be taken into account. (***Insert brief summary of reasons/mitigating circumstances given by the employee***).

Having carefully considered our discussion and the evidence available to me, I am satisfied that I am justified in my view that your conduct continues to be unsatisfactory. This is despite (***insert details of any previous informal management action taken to assist the employee in achieving the required level of conduct***).

On this basis I informed you of my decision to issue you with a verbal caution of the need to improve the following aspects of your conduct:-

(enter details of conduct issues and improvements required)

We discussed and agreed that a reasonable time period within which you are required to make these improvements is (***insert timescale***). If for any reason you consider that you will not be able to achieve what is required of you please ensure that I am informed at the earliest opportunity. In the meantime I will of course continue to monitor your conduct during this review period.

We also discussed what further assistance the School can provide to help you in reaching the required standards of conduct (*provide details of support to be provided or confirm reasons why no support being provided and the reasons why*).

Arrangements will be made for us to meet again to review your progress towards the end of your review period. Whilst I hope this review will be positive you need to be aware that should you make no or insufficient improvement this may lead to further formal disciplinary action being taken under the School's Disciplinary Procedure and ultimately to dismissal.

A copy of this letter confirming my verbal request for an improvement in your conduct will be placed on your personnel file for a period of 6 months from the date of this letter. Providing your performance has improved to a satisfactory level within this period the letter will be removed from your supervisory records and destroyed at the end of the 6 month period.

If you have any queries regarding the content of this letter please do not hesitate to contact me.

Yours sincerely

[First name] [Last name] (Job Title)

Disciplinary Procedure - Guidance

Model Letter D – Confirmation of Disciplinary Investigation to Employee Alleged to have committed an Act(s) of Misconduct

This model letter should be used to notify an employee that their conduct is to be investigated under the provisions of the School's Disciplinary Procedure.

Using this document

- Letter to be issued by the Headteacher
- Second copy of letter to be enclosed for employee's representative

[Title and full name of employee required to attend management meeting]

[Address 1]

[Address 2]

[Address 3]

[Day] [Month] [Year]

Dear [Title and surname of employee]

Thank you for attending our meeting onI am writing to inform you that I have decided that allegations/concerns relating to your conduct be formally investigated under the provisions of the School's Disciplinary Procedure. The reason for my decision is that (***insert relevant reason from following list***)

- *It is alleged that there has been no satisfactory improvement in your conduct and/or a further breach in discipline is alleged following a verbal improvement notice being issued to you on (***insert date***)*
- *It is alleged that there has been no satisfactory improvement in your conduct and/or a further breach in discipline is alleged following a first written warning being issued to you on (***insert date***)*
- *The alleged breach of conduct is serious in nature*
- *There have been a number of alleged minor breaches in discipline which taken together constitute a serious breach in discipline.*

The alleged misconduct to be investigated is (***insert details***). [The investigation will be conducted by (***insert name /designation***) **OR** You will be informed shortly who will be conducting the investigation].

The likely timescale for the investigation is (***specify***) however there may be a need to extend this to ensure that a thorough investigation of relevant information is carried out. You will be regularly updated on the progress being made in this respect.

You will be contacted shortly by (***name of Investigating Officer***) and informed of the arrangements to meet with you to provide you with the opportunity to respond to the allegations

of misconduct and to provide any information which you consider to be relevant to the disciplinary investigation. In accordance with the provisions of the Disciplinary Procedure you have the right to be accompanied by your trade union representative or a fellow worker for support at any meeting you are required to attend as part of the disciplinary investigation process.

Once the investigation process has been concluded I will receive a report from the Investigating Officer presenting his/her (***delete as applicable***) findings and that will enable me to form a view as to whether or not there is a case to answer. I will write to you to confirm my decision on this matter as soon as I am able to. Please note that at this stage in the process no view has been taken as to whether you have committed any act(s) of misconduct.

I understand that this will be an unsettling time for you and you may wish to contact your trade union for support where you are a member (I enclose an additional copy of this letter for this purpose). [You are also welcome to make use of the Employee Assistance Provider and I attach a leaflet providing you with further information on this facility. *include only if available*]

A copy of this letter is attached for your representative. [***Include if not already shared*** A copy of the Disciplinary Policy is also enclosed.]

If you have any queries regarding this letter please do not hesitate to contact me.

Yours sincerely

[First name] [Last name] [Job title]
[Job title]

Enclosures:

- Copy of letter for representative
- Copy of Disciplinary Policy [*include only if not already shared*]

Disciplinary Procedure - Guidance

Model Letter E - Informing the Employee of Suspension Pending Investigation

This model letter should be used to notify an employee that they are to be suspended from work pending a disciplinary investigation into their conduct.

Notes

- **Attach copy of Disciplinary Procedure**
- **Attach copy of the school's requirements regarding Sickness Absence Reporting**
- **Second copy of letter to be enclosed for employee's representative**

[Title and full name of employee to be suspended]

[Address 1]

[Address 2]

[Address 3]

[Day] [Month] [Year]

Dear [Title and surname of employee]

Suspension from Duty

I am writing to confirm that, [in accordance with the school's Disciplinary Policy (copy attached)], you have been suspended from work on full pay pending investigation into the following allegations:-

-
-
-

This suspension is [to allow a proper investigation to be made in accordance with the (*enter name of school*) Disciplinary Procedure (copy attached) / to preserve evidence / to protect witnesses and the integrity of the investigation / in recognition of the seriousness of the alleged misconduct / to ensure we are fulfilling our responsibilities as an employer to other parties (for e.g. where a child or children is/are at risk) / to protect the interests of the school (e.g. school property)].

The suspension is not a disciplinary sanction and does not mean that a view has been taken as to whether you have committed an act of misconduct. You will be provided at the appropriate time within the investigation process, the detail of the information upon which this/these allegation(s) is/are based and the full opportunity to respond.

You have been assigned a Contact Officer who will act as your first point of contact should you need to contact your employer for any reason during the period of suspension. The name and contact details for this officer is (*enter details*). Your contact officer will keep in regular contact with you whilst you are suspended and will ensure that you are kept updated on the progress of

the disciplinary investigation and any work-related issues.

During the period of your suspension the following conditions apply:-

1. suspension is not a disciplinary sanction and does not mean that the school has yet formed a view as to whether you have committed an act of misconduct or formed a view as to what, if any, disciplinary sanction is appropriate;
2. during the period of suspension you will continue to receive your normal pay and conditions, during periods of authorised absence;
3. you must not, during this period of suspension, enter your place of work or contact any client or any member of staff of the department other than any Trades Union representative or a fellow worker representing you. A serious view will be taken of any failure to comply with this condition and if it presents you with any difficulty you should inform your suspension contact officer (contact details as above). ;
4. during the period of suspension you are required to comply with the school's requirements for Sickness Absence Reporting. If you are unclear as to how you should report any sickness absence during your period of suspension please contact me. In these circumstances the Statutory Sick Pay and Occupational Sick Pay Scheme will operate as normal; and
5. [if you intend to book annual leave during the period of your suspension you are required to inform your suspension contact officer who will seek the required approval from your line manager. Any annual leave taken during the period of your suspension will be deducted from your annual leave entitlement. *include only if relevant*]

I appreciate that this will be an unsettling time for you and you may wish to contact your trade union where you are a member for support. I enclose an additional copy of this letter to provide to your representative should you wish. [In addition you may wish to access your school's Employee Assistance Provider *include only if available*]

[You will be informed shortly who will be conducting the investigation / [Name] will be conducting the investigation.] You will be contacted again shortly to confirm the arrangements for you to be interviewed as part of the investigation process. In the meantime if you have any queries regarding the content of this letter please do not hesitate to contact me.

Yours sincerely

[First name] [Last name]
[Job title]

Disciplinary Procedure - Guidance

Model Letter F - Model Letter - Invitation to an Investigation Meeting

Using this document

This model letter should be used to notify an employee that they are to attend an investigation meeting.

- Letter to be sent to employee at least 5 working days prior to the date of the Investigation Meeting
- Letter to be Issued by the Investigating Officer
- Second copy of letter to be enclosed for employee's representative

[Note: this letter assumes that the Investigating Officer is not the Headteacher / the person who makes the decision with regard to progressing to a Disciplinary Hearing]

[Title and full name of employee required to attend investigation meeting]

[Address 1]

[Address 2]

[Address 3]

[Day] [Month] [Year]

Dear [Title and surname of employee]

In their letter of [date], the Headteacher informed you that they had decided that allegations/concerns relating to your conduct be investigated under the provisions of the School's Disciplinary Procedure and that would be contacted shortly by myself as the Investigating Officer and informed of the arrangements to meet with you as part of the investigation.

Accordingly I am writing to tell you that you are required to attend an investigative meeting with myself, as Investigating Officer on [insert date – give at least five working days' notice] at [insert time], which is to be held [in/at] [insert location]. If for any reason the venue is not suitable, please let me know.

The alleged misconduct to be investigated is (insert details).

The meeting is to provide you with the opportunity to respond to the allegations of misconduct and to provide any information which you consider to be relevant to the disciplinary investigation. In accordance with the provisions of the Disciplinary Procedure you have the right to be accompanied by your trade union representative or a work colleague for support at the meeting.

This meeting is not a disciplinary hearing; rather it is part of an investigation into your conduct under the School's Disciplinary Policy.

Please contact me [name / contact details], to confirm that the date and time are convenient. Could you please also confirm with me who will be accompanying you.

Once the investigation process has been concluded I will present my findings as Investigating Officer in order to enable the Headteacher to form a view as to whether or not there is a case to answer.

The Headteacher will then write to you to confirm her decision on this matter as soon as possible. Please note that at this stage in the process no view has been taken as to whether you have committed any act(s) of misconduct.

I understand that this will be an unsettling time for you and you may wish to contact your trade union for support where you are a member (I enclose an additional copy of this letter for this purpose).

[You are also welcome to make use of your school's Employee Assistance Provider. *include only if available*]

If you have any queries regarding this letter please do not hesitate to contact me.

Yours sincerely

[First name] [Last name] [Job title]
[Job title]

Disciplinary Procedure - Guidance

Model Letter G - Invitation to a Disciplinary Hearing

Using this document

This model letter should be used to notify an employee that they are to attend a disciplinary hearing. This letter is based on the sample letter given in Appendix 3 of the ACAS advisory handbook 'Discipline and Grievances at Work'.

- **Letter to be sent to employee at least 10 working days prior to the date of the Disciplinary hearing.**
- **Second copy to be enclosed for employee's representative**

[Title and full name of employee required to attend disciplinary hearing]

[Address 1]

[Address 2]

[Address 3]

[Day] [Month] [Year]

Dear [Title and surname of employee]

I am writing to inform you that you are required to attend a disciplinary hearing on *[insert date]* at *[insert time]*, which is to be held *[in/at] [insert location]*.

At this hearing the question of disciplinary action against you, in accordance with (*enter name of school*) Disciplinary Procedure, will be considered with regard to *[insert details of disciplinary matter(s)]*.

The Disciplinary Panel will be chaired by (*enter name*) who will be accompanied by (*enter names of other panel members*). The management presenting officer who will present the management case will be (*enter name*). The following management witnesses will be called to give evidence in support of the management case:- (*enter names of witnesses*).

You are entitled, if you wish, to be accompanied by a fellow worker or your trade union representative. If you choose to be represented can you please let me know the name and status of your representative either by contacting me by telephone or e-mail or by letter (contact details as above).

I am enclosing a copy of the protocol for the hearing and another copy of this letter for your representative.

Arrangements will be made for you to receive a copy of the written management submission and any supporting documentation not later than ten working days before the date of your hearing. Similarly can you please ensure that you provide a copy of any written documentation, including witness statements where appropriate, you wish the panel to consider at your hearing within five working days of the date of the hearing and I will arrange for this to be distributed to the panel and the management presenting officer in advance of the hearing.

(In cases where potential gross misconduct insert:- Please note that the allegations against

you if found to be proven by the Disciplinary Panel constitute gross misconduct and may lead to your summary dismissal.

(In cases where employee already subject to a current final written warning insert:- Please note that on the basis of you being subject to a current final written warning for misconduct, a possible outcome of this hearing should the further allegations of misconduct be found to be proven, is dismissal)

(In cases where allegation has been determined to be safeguarding related following advice from the DOFA, insert: -As the allegations under consideration are deemed to be safeguarding related, it is important that you are aware that the hearing could result in the recording of a substantiated safeguarding allegation on your personnel file until your normal pension age or for a period of 10 years from the date of the allegation if that is longer.)

I would ask you, using one of the contact methods above, to confirm whether you will or will not be attending the disciplinary hearing by *[insert date]*. If you and/or your representative are unable to attend on the date which has been arranged one other alternative date will be provided not more than five working days after the hearing date stated in this letter. If you will not be attending, you may still submit your written submission for the panel to consider. I must inform you that if you do not attend and do not provide me with a valid reason for your non-attendance, the hearing will go ahead in your absence.

If you have any special requirements which you would wish me to consider prior to the hearing date or any general queries relating to the content of this letter please do not hesitate to contact me.

Yours sincerely

[First name] [Last name] [Job title]
[Job title]

Disciplinary Procedure - Guidance

Model Letter H – Confirmation of First Written Warning

If the offence is more serious than an offence that merits a verbal warning, the employee should be given a first formal written warning.

A first formal written warning may also be appropriate if a verbal warning is still live and there has been no satisfactory improvement in the employee's conduct.

Notes

- Letter to be sent within 5 working days of the date of the Disciplinary hearing
- Copy to be retained on employee's personnel file for 12 months

[Title and full name of employee who attended the disciplinary hearing]

[Address 1]

[Address 2]

[Address 3]

[Postcode]

[Day] [Month] [Year]

Dear [Title and surname of employee]

You attended a disciplinary hearing on [*insert date*] at which you (*were represented by (insert name and status of representative) /chose not to be represented*). I am writing to confirm the decision taken that you be given a written warning under (*enter schools name*) Disciplinary Procedure.

This warning will be placed in your personal file but will be disregarded for disciplinary purposes after 12 months from the date of this letter provided your conduct improves and there is no further misconduct of a similar nature of otherwise within the 12 month period.

Include if any of the allegations were deemed to be safeguarding related The allegation(s) which were deemed to be safeguarding related were however found to be FALSE / UNSUBSTANTIATED / UNFOUNDED and will be recorded as such in accordance with statutory guidance (Keeping Children Safe in Education 2018).

OR

Include if any of the allegations were deemed to be safeguarding related As the allegation(s) which were deemed to be safeguarding related were found to be substantiated, the following actions will also be taken by the school:

- The details of the substantiated allegation will be kept on your confidential personal file until you have reached formal pension age or for a period of 10 years from the date of the allegation if that is longer.

• Any future employment references requested from the school will confirm that allegations of a safeguarding nature made against you were found to be substantiated.

The nature of the unsatisfactory conduct was [*insert details of the employee's conduct as appropriate*].

The relevant matters were discussed fully at the disciplinary hearing and your explanation was taken into account.

As a result, the conduct improvement expected is [*insert details of the employee's expected improvement*].

The time scale within which the improvement required is [*enter period of time within which improvement expected*].

The likely consequence of further misconduct or insufficient improvement is a final written warning. **OR** You need to be aware that should you be responsible for further misconduct or make no or insufficient improvement this may lead to further formal disciplinary action being taken under the School's Disciplinary Procedure and ultimately to dismissal.

You have the right of appeal against this decision. If you wish to lodge an appeal please complete the attached Disciplinary Appeals Notification Form and return to (*enter name of Headteacher*) within ten working days of receiving this written warning.

If you have any queries regarding the content of this letter please do not hesitate to contact me.

Yours sincerely

[First name] [Last name]
[Job title]

Disciplinary Procedure - Guidance

Model Letter I - Final Written Warning

Using this document

If there has been no sustained and satisfactory improvement in an employee's conduct within the specified time following a first formal written warning, a final written warning may be appropriate. The sanction in these circumstances gives the employee a 'last chance' to improve their conduct or performance.

A final written warning may also be appropriate if the offence committed by the employee is serious enough to justify a first and final warning.

Similarly, a final written warning may also be appropriate where dismissal would be an option but where that sanction is not applied because of some fact peculiar to the individual employee.

This model letter is based on a letter that appears in Appendix 3 of the ACAS advisory handbook 'Discipline and Grievances at Work'.

Notes

- **Letter to be sent within 5 working days of the date of the Disciplinary Hearing**
- **Copy to be retained on the employee's personnel file for 2 years**

[Title and full name of employee who attended the disciplinary hearing]

[Address 1]

[Address 2]

[Address 3]

[Postcode]

[Day] [Month] [Year]

Dear [Title and surname of employee]

You attended a disciplinary hearing on [*insert date*] at which you (*were represented by (insert name and status of representative) /chose not to be represented*). I am writing to confirm the decision taken that you be given a final written warning in accordance with the school's Disciplinary Procedure.

This warning will be placed in your personal file but will be disregarded for disciplinary purposes after a period of 12 months from the date of this letter provided your conduct improves and provided that you have not committed another act of misconduct whether of a similar nature or otherwise within the 12 month period. The nature of the unsatisfactory conduct was [*insert details of the employee's conduct*].

Include if any of the allegations were deemed to be safeguarding related The allegation(s) which were deemed to be safeguarding related were however found to be FALSE / UNSUBSTANTIATED / UNFOUNDED and will be recorded as such in accordance with statutory guidance (Keeping Children Safe in Education 2018).

OR

Include if any of the allegations were deemed to be safeguarding related As the allegation(s) which were deemed to be safeguarding related were found to be substantiated, the following actions will also be taken by the school:

- The details of the substantiated allegation will be kept on your confidential personal file until you have reached formal pension age or for a period of 10 years from the date of the allegation if that is longer.

- Any future employment references requested from the school will confirm that allegations of a safeguarding nature made against you were found to be substantiated.

The relevant matters were discussed fully at the disciplinary hearing and your explanation was taken into account.

As a result, the conduct improvement expected is [*insert details of the employee's expected improvement*].

The time scale within which the improvement required is [*insert time period*].

The likely consequence of further misconduct whether of a similar nature or otherwise is dismissal.

You have the right of appeal against this decision. If you wish to lodge an appeal please complete the attached Disciplinary Appeals Notification Form and return to (*insert name of Headteacher*) within ten working days of receiving this written warning.

If you have any queries regarding the content of this letter please do not hesitate to contact me.

Yours sincerely

[First name] [Last name]
[Job title]

Disciplinary Procedure - Guidance

Model Letter J - Confirmation of Dismissal Following Previous Warnings

This model letter should be used to confirm to those employees who have been issued with previous warnings that they have been dismissed.

Notes

- Letter to be sent within 5 working days of the date of the Disciplinary Hearing
- Copy to be retained on the employee's personnel file

[Title and full name of employee who is to be dismissed]

[Address 1]

[Address 2]

[Address 3]

[Postcode]

[Day] [Month] [Year]

Dear [Title and surname of employee]

On [*insert date*] you were informed in writing that you would be given a final written warning in accordance with the School's Disciplinary Procedure. In that letter you were warned that if your conduct did not improve, or you committed another act of misconduct whether of a similar nature or otherwise, you were likely to be dismissed.

At the disciplinary hearing held on [*insert date*] it was decided that your conduct was still unsatisfactory and that you would be dismissed. The reasons for your dismissal are [*insert details of reasons for the dismissal*].

I am therefore writing to you to confirm the decision that you will be dismissed in accordance with the School's Disciplinary Procedure and that your last day of service with the School will be [*insert date as appropriate*]. You are entitled to (*enter number of weeks notice*) weeks notice of the termination of your employment. You will not be required to work this notice period; rather you will receive payment in lieu of notice in your final salary payment. In addition you will receive payment for any annual leave you have accrued but have not taken prior to the effective date of the termination of your employment.

Include if any of the allegations deemed to be safeguarding related As the allegation(s), which were deemed to be safeguarding related were found to be substantiated, the following actions will also be taken by the school:

- The details of the substantiated safeguarding allegation will be kept on your confidential personal file until you have reached formal pension age or for a period of 10 years from the date of the allegation if that is longer.

- Any future employment references requested from the school will confirm that allegations of a safeguarding nature made against you were found to be substantiated.
- A referral will be made for you to the Disclosure and Barring Service.

Include if teacher and misconduct deemed to be sufficiently serious The school will also be making a referral for you to the Teachers Regulation Agency for Serious Professional Misconduct.

If you are a member of the Local Government Pension Scheme, Bath and North East Somerset Council who administer the scheme on behalf of North Somerset Council will write to you directly regarding your pension arrangements and the options available to you.

You have the right of appeal against this decision. If you wish to lodge an appeal please complete the attached Appeal Notification Form which should be returned to (*enter name of Headteacher*) within ten working days of receiving this notice of dismissal.

I should be grateful if you would return your staff identity badge in the envelope provided. Your line manager will be in contact with you shortly to arrange for the collection of any personal belongings and the return of any School equipment of which you may be in possession.

If you have any queries regarding the content of this letter please do not hesitate to contact me.

Yours sincerely

[First name] [Last name]
[Job title]

Disciplinary Procedure - Guidance

Model Letter K - Confirmation of Dismissal Without Previous Warnings

This model letter should be used to confirm to those employees who have **not** been issued with previous warnings that they have been dismissed.

Notes

- Letter to be sent within 5 working days of date of Disciplinary Hearing
- Copy of letter to be retained on employee's personnel file

[Title and full name of employee who is to be dismissed]

[Address 1]

[Address 2]

[Address 3]

[Postcode]

[Day] [Month] [Year]

Dear [Title and surname of employee]

I am writing to confirm the decision taken at the disciplinary hearing held on [*insert date*] that you would be summarily dismissed without notice or payment in lieu of notice, in accordance with the School's Disciplinary Procedure. Your last day of service was [*insert date as appropriate*].

The reasons for your summary dismissal are [*insert details of reasons for the dismissal*].

Include if any of the allegations deemed to be safeguarding related As the allegation(s), which were deemed to be safeguarding related were found to be substantiated, the following actions will also be taken by the school:

- The details of the substantiated safeguarding allegation will be kept on your confidential personal file until you have reached formal pension age or for a period of 10 years from the date of the allegation if that is longer.
- Any future employment references requested from the school will confirm that allegations of a safeguarding nature made against you were found to be substantiated.
- A referral will be made for you to the Disclosure and Barring Service.

Include if teacher The school will also be making a referral for you to the Teachers Regulation Agency for Serious Professional Misconduct.

If you are a member of the Local Government Pension Scheme, Bath and North East Somerset Council who administer the scheme on behalf of North Somerset Council will write to you directly regarding your pension arrangements and the options available to you.

You have the right of appeal against this decision. If you wish to lodge an appeal please complete the attached Appeal Notification Form which should be returned to (enter name of Headteacher) within ten working days of receiving this confirmation of your summary dismissal.

I should be grateful if you would return your staff identity badge in the envelope provided. Your line manager will be in contact with you shortly to arrange for the collection of any personal belongings and the return of any School equipment of which you may be in possession.

If you have any queries regarding the content of this letter please do not hesitate to contact me.

Yours sincerely

[First name] [Last name]

[Job title]

Disciplinary Procedure - Guidance

Model letter L - Notice of an Appeal Hearing

Using this document

This model letter should be used to notify an employee that they are to attend an appeal hearing.

This letter is based on the sample letter given in Appendix 3 of the ACAS advisory handbook 'Discipline and Grievances at Work'.

Notes

- **10 working days notice of appeal hearing to be provided**

[Title and full name of employee required to attend the appeal hearing]

[Address 1]

[Address 2]

[Address 3]

[Day] [Month] [Year]

Dear [Title and surname of employee]

You have appealed against the [*written warning/final written warning/ notice of dismissal/ summary dismissal/ other action short of dismissal (specify)*] confirmed to you in writing on [*insert date*]. Your appeal will be heard by [*insert name(s) of person/people and their job title(s) as appropriate*] [*in/at*] [*insert location*] on [*insert date*] at [*insert time*].

The grounds for your appeal are as follows:- (*insert grounds for appeal as specified by appellant*).

The decision of this appeal hearing is final and there is no further right of internal review.

You have the right to appear alone or to be accompanied by your trade union representative or a fellow worker.

Arrangements will be made for you to receive a copy of the written management submission which will be presented to the Governor Appeals Panel not less than 5 working days in advance of the date of the appeals hearing. Please ensure that any documentation you wish the appeals panel to consider is submitted to me at least 5 working days in advance of the date of the hearing. I will then arrange for this to be circulated to the appeals panel and to the management presenting officer. Can you also ensure that you provide confirmation of the names of any witnesses you intend calling within the same timescale.

If you have any queries regarding these arrangements please do not hesitate to contact me.

Yours sincerely

[First name] [Last name]

[Job title]

Disciplinary Procedure - Guidance

Model Letter M - Confirmation of the Result of a Disciplinary Appeal Hearing

This model letter should be used to confirm to an employee the result of their appeal hearing.

Notes

- **To be sent within 5 working days of date of appeals hearing by the Chair of the Appeals Panel**
- **Copy to be retained on employee's personnel file**

[Title and full name of employee who attended the appeal hearing]

[Address 1]

[Address 2]

[Address 3]

[Day] [Month] [Year]

Dear [Title and surname of employee]

On (*insert date of appeal hearing*), you appealed against the decision of the disciplinary hearing held on (*insert date of initial disciplinary hearing*) that you be given a [**written/final written warning/be dismissed/ be summarily dismissed**] in accordance with (*enter name of school*) Disciplinary Procedure.

I am writing to confirm that the decision taken by the Governor Appeals Panel who conducted the appeal hearing, was that the decision to [*insert details of original disciplinary decision e.g. issue you with a first written warning*] [stands/is revoked]. As a result, [*specify if no change to disciplinary sanction or, where appropriate what the new disciplinary sanction will be*].

This warning will be placed in your personal file but will be disregarded for disciplinary purposes after a period of [**12 months / 2 years – select depending on whether first written warning or final written warning**] from the date of this letter provided your conduct improves and provided that you have not committed another act of misconduct whether of a similar nature or otherwise within the [**6 months / 12 months / 2 years – select depending on whether first written warning or final written warning**].

You have now exercised your right of appeal under (*enter name of school*) Disciplinary Procedure and the decision of the Governor Appeal Panel is final.

Yours sincerely

[First name] [Last name]

[Job title]

Disciplinary Procedure - Guidance

Model Appeal Notification Form

Note: any appeal must be submitted by you as the employee in writing to the Headteacher within 10 working days of the date of the letter confirming the decision of the Headteacher at the Management Meeting / Disciplinary Panel. The appeal must include specific details of the reasons why you, the employee, consider that the disciplinary sanction should be reviewed.

I wish to appeal against outcome of the management meeting / disciplinary hearing held on (*insert date of disciplinary hearing*): _____ that I be (*insert sanction*): [*e.g. be given a written/final written warning/be dismissed/ be summarily dismissed*]

in accordance with (*enter name of school*): _____
Disciplinary Procedure.

I wish the disciplinary decision, that I be [*insert details of original disciplinary decision e.g. be given a written/final written warning/be dismissed/ be summarily dismissed*]: _____

to be reviewed.

I wish to do so for the following reason(s):

(*please continue on separate sheet if necessary*)

I understand that I am exercising my right of appeal under (*enter name of school*): _____ Disciplinary Procedure and that the decision of the Governor Appeal Panel is final.

Name (please print): _____

Signature: _____

School: _____