



# **DISCIPLINARY POLICY FOR SCHOOL BASED STAFF**

**Adopted by : Holmwood School**

**Approved by FGB on 1.12.21**

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# **Disciplinary Policy, Procedure And Guidance**

## **1.0 INTRODUCTION**

- 1.1 A high standard of discipline is essential for the efficient and orderly conduct of the School and for the safety and well being of its staff and pupils. The Governing Body and Head Teacher are responsible for promoting and maintaining that standard.
- 1.2 The intention of this policy is to provide a fair and consistent basis for dealing with conduct or behaviour which is either unsatisfactory or fails to meet the required standards. Its main aim is to bring about permanent change in conduct.
- 1.3 This policy must be applied fairly to all employees irrespective of age, disability, gender reassignment, marital and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

## **2.0 SCOPE**

- 2.1 This policy and procedure applies to all teaching and support staff within the school, including the Head Teacher, regardless of length of service, whether full-time, part-time, permanent or fixed term.
- 2.2 An employee who is not achieving the required standard of work because of ill health or capability will be dealt with under the School's Capability Procedures or Managing Attendance Procedures.

## **3.0 AIM**

- 3.1 The School believes it is important to have policies and procedures, which assist in setting standards of conduct and ensure order and fairness in the treatment of individuals.

## **4.0 PROCEDURAL GUIDANCE**

- 4.1 Responsibility for taking disciplinary action is delegated by the Governing Body to the Head Teacher. In the case of disciplinary action against the Head Teacher the responsibility is with the Chair of Governors in consultation with the Local Authority.
- 4.2 The following procedure will apply in line with statutory requirements. The procedure will normally apply to all situations in which a potential disciplinary matter arises or where dismissal is a possibility.
- 4.3 Outside of the above procedure, the Head Teacher/Manager may issue guidance, advice, positive instruction or prohibition as appropriate
  - to ensure that problems are discussed at an early stage
  - with the objective of encouraging and helping employees to improve
  - to forewarn that if advice, guidance, instruction or prohibition is not observed formal disciplinary action will follow.

- 4.4 Timely and positive discussions with an employee to highlight problems may avoid formal disciplinary action at a later time. The Head Teacher/Manager may, where appropriate from time to time, informally advise an employee of matters of concern, or issue advice, guidance, instruction or prohibition designed to help set standards.
- 4.5 Such advice and guidance are not part of the formal disciplinary procedures and the employee should be informed that this is the case. However employees may wish to seek advice from their Trade Union Representative.
- 4.6 Whenever the Head Teacher/Manager gives advice, guidance, instruction or prohibition to an employee, it should be carried out in confidence and recorded by letter and placed on the employee's personal file in School. (see example letter LET/SCH/051)
- 4.7 Throughout the formal procedure employees have the right to be accompanied by an appropriate Trade Union representative or a school colleague.
- 4.8 It is not intended that the operation of the disciplinary procedure should be adversarial in nature. It is intended to bring about an improvement or to get to the truth of a matter.

## **5.0 THE PROCEDURE**

The Head Teacher or Governing Body will, at the earliest opportunity, inform the employee in writing of the nature of the allegations with as much detail as possible and the name of the person who will be conducting the investigation. This should be sent to the employee's home address, or given to the employee in person, prior to the investigation commencing, enclosing a copy of the Disciplinary Policy. (see example letter LET/SCH/052)

At any stage of this process advice may need to be sought from Human Resources.

### **5.1 Stage 1 : Investigation**

- 5.1.1 The Head Teacher or Governing Body will appoint an investigating officer to investigate the matter. This will normally be a senior member of staff who has had no previous involvement in the case or, in extreme cases, a representative of the Local Authority.
- 5.1.2 No formal disciplinary action will be taken against an employee until any possible case has been investigated as fully as is required in the circumstances. The purpose of the investigation will be to establish the facts promptly and before memories fade, and to take into account statements from any relevant witnesses.
- 5.1.3 The nature of the investigation will vary depending upon the circumstances. It could range from the examination of a record, to a series of interviews.

5.1.4 Where it is necessary to hold an investigatory interview(s) with the employee the investigating officer will write to the employee and give the following information (see example letter LET/SCH/053):-

- (a) Details of the allegations.
- (b) Copies of any appropriate available information.
- (c) A copy of the disciplinary procedure.
- (d) Time and date of investigation meeting.
- (e) Right to representation at any meeting.

5.1.5 It must be noted, however, that in certain circumstances it may not be appropriate to notify the employee that an investigation is underway. This will normally only be in cases where there is a need for strict confidentiality and/or where the Police may be involved, for example, child protection issues, fraud or other financial irregularities and theft.

5.1.6 In all cases any verbal notification will be followed up in writing as soon as possible.

5.1.7 The Investigating Officer will examine relevant documents, records etc. and will interview appropriate people. Interview notes should be confirmed with the interviewees and signed statements taken. Witnesses should be made aware that any discussions are strictly confidential.

5.1.8 When the employee has been notified of the nature of the complaint against him/her, he/she should have the opportunity to comment on the matter under investigation. The opportunity for this will be at the formally convened investigatory interview.

5.1.9 As soon as the formal investigation is complete the investigating officer will complete a full report including the findings and will recommend one or more of the following:

- a) no further action
- b) support, training, guidance or information to the employee
- c) that a disciplinary hearing be held to consider the matter further
- d) a review of procedure or process

NB: It may be helpful at this stage for the investigating officer to speak to Human Resources for advice on further stages of this process and timings.

5.1.10 The investigating officer should send, confidentially, only the recommendations to the Head Teacher/Governing Body.

5.1.11 If support, training, guidance or information to the employee is the recommended outcome this should be confirmed to the employee in writing. (see example letter LET/SCH/054)

## **5.2 Stage 2 – The Disciplinary Hearing**

5.2.1 Where a disciplinary hearing is to be convened, whenever possible, it should be arranged at a mutually convenient time and the employee must be given at least **five** working days notice.

- 5.2.2 The Head Teacher will hear the case unless he/she has been directly involved in the case or acted as the investigating officer, in which case the hearing can be delegated to a panel of at least 3 Governors.
- 5.2.3 The Head Teacher/Governing Body must write to the employee, at their home address, inviting them to the hearing and informing them in advance of:  
(see example letter LET/SCH/035)
- (a) The statutory right to be accompanied by an appropriate trade union representative or a work colleague of their choice.
  - (b) The alleged conduct or circumstances which may lead to dismissal or other disciplinary action being contemplated against the employee.
  - (c) The requirement to attend to discuss the matter.
  - (d) The date, time and location of the hearing.
  - (e) The supporting evidence, including the investigating officer's report, which is to be submitted at the hearing (if available).
  - (f) The right to call witnesses and submit relevant information within the agreed timescale.
- 5.2.4 Any documentary evidence, which either party intend to submit, should be made available to the other party at least **three** working days prior to the hearing, or a later date only by agreement. If it is not made available three days in advance then the other party will have the option of requesting a postponement.
- If any additional paperwork is to be submitted this must be provided to both parties within an agreed timescale.**
- 5.2.5 In any event the hearing must not take place until the employee has been informed of the grounds for calling the hearing and given a reasonable opportunity to consider his/her response to that information.
- 5.2.6 The School expects the employee to attend the hearing.
- 5.2.7 The Head Teacher/Chair of Panel should be accompanied and advised by Human Resources in all cases.
- 5.2.8 The hearing should proceed in accordance with the procedure for Disciplinary Hearings. (Appendix D)
- 5.2.9 The Head Teacher/Chair of Panel may adjourn to enable him/her to consider the facts and reach a decision or to call for additional information.
- 5.2.10 When the hearing is re-convened the employee will be informed of the decision and will be notified of the right to appeal against the decision. This will be followed up in writing.

## **6.0 POSSIBLE OUTCOMES OF THE PROCEDURE**

Please refer to section 12 for guidance on timescales for sanctions.

### **6.1 No Further Action**

6.1.1 This should be confirmed in writing to the employee

### **6.2 Advice, Guidance and/or Training**

6.2.1 Appropriate for minor breaches of conduct. Timescales and review dates should be set and confirmed to the employee in writing.

### **6.3 Formal Warning**

6.3.1 A formal warning (as distinct from guidance and advice) may be given only following a disciplinary hearing. Such a warning may be given if the breach of discipline or unsatisfactory conduct is so serious that guidance and advice would not be appropriate in the circumstances or where there has been further unsatisfactory conduct or a breach of discipline following informal guidance and advice.

6.3.2 The warning will be confirmed in writing and will set out the nature of the misconduct, the improvement(s) required, the likely consequences of further misconduct and any time limits imposed and the right of appeal. (see example letter LET/SCH/055)

### **6.4 Final Warning**

6.4.1 A final warning may be given only following a disciplinary hearing.

6.4.2 Such a warning may be given if the breach of discipline or unsatisfactory conduct is so serious that a formal warning only would not be appropriate in the circumstances or where there has been further unsatisfactory conduct or a breach of discipline following a formal warning.

6.4.3 The final warning will be confirmed in writing and will set out the nature of misconduct, the improvement(s) required, any time limits imposed and the right of appeal, and will make it clear that further misconduct could lead to a recommendation that the employee be dismissed. (see example letter LET/SCH/056)

### **6.5 Dismissal**

6.5.1 Dismissal may be invoked only following a disciplinary hearing. In conduct cases dismissal may be invoked where it has been found that there has been gross misconduct (see Appendix A for examples) or where the employee has on record a current final warning for the same or similar conduct. Other procedures cover dismissals arising from capability or redundancy. If the employee could not continue to work in the position held without contravention of an enactment then dismissal might be invoked without previous warnings.

6.5.2 On occasions, as an alternative to dismissal an employee may be demoted and/or transferred. It should be noted that in these circumstances, unless agreed with the individual this will constitute a dismissal. Should this occur this action should be linked to a final written warning.

6.5.3 In accordance with the School Staffing (England) Regulations 2009, where the Head Teacher/Governors decide that the appropriate sanction is to cease working at the school, the notice of dismissal will be issued by the School and confirmed by the Council (except in the case of Voluntary Aided and Foundation Schools). This confirmation must be sent within 14 days of the date the notification was issued by the School and must refer to the right of appeal. (see example letter LET/SCH/058)

6.5.4 Where a teacher is dismissed or resigns or leaves as an alternative to dismissal whilst in the formal part of the disciplinary process, it is the statutory responsibility of the employer to refer the case to the GTCE who will consider the case under its disciplinary functions.

## **6.6 Levels of Discipline**

6.6.1 The procedure described above will, in the case of minor breaches of discipline, be followed sequentially, commencing with guidance and advice. More serious offences may, even on first offence, result in a formal warning or a final warning. Dismissal will be invoked only in the cases as set out above.

## **7.0 RELATIONSHIP BETWEEN CONDITIONS OF SERVICE AND THIS PROCEDURE**

7.1 This procedure in its entirety covers all necessary provisions for those staff employed under the National Joint Council for Local Government Services and Teachers' Conditions. Where the conditions of service provide clear, unambiguous and specific entitlements in respect of disciplinary matters and do not allow local variations in respect of such matters, this procedure shall apply in conjunction with the terms in the individual's conditions of service.

7.2 If the conditions of service are silent on any matter(s) contained in this procedure, the relevant part(s) of this procedure shall apply. For the avoidance of doubt, the above procedures set out the minimum standards required in the context of dismissal or action short of dismissal in respect of any employee.

## **8.0 SUSPENSION FROM WORK**

8.1 The Head Teacher or Governing Body has the authority to suspend a member of staff from duty. Any suspension from work will be on full pay. Suspension should be as short as possible and be reviewed if it continues for a period of one month to assess the reasons for delays. Following this a review should take place, by the Head Teacher/Governing Body, every two weeks to ensure suspension is kept to a minimum and the employee is kept up to date with progress.

8.2 The Head Teacher/Governing Body should ensure the employee is sent a letter identifying the support mechanisms available. Further information is available on the School Tile or from Human Resources

8.3 If during the suspension period the employee has any concerns or enquiries then they should contact the Head Teacher or Governing Body whichever is appropriate.

- 8.4 During the suspension period the employee must be available to attend meetings as required and must not attend the workplace unless invited to do so. Should the employee not be available or acts in breach of the suspension rules then this may affect their pay.
- 8.5 Suspension is not disciplinary action in itself but a Neutral Act pending investigation or other measures.
- 8.6 An employee may be suspended if:
- (a) it is considered that an act of gross misconduct may have occurred, but it is considered that the employee's continuation at work represents a serious risk to themselves, colleagues, members of the public or pupils.
  - (b) the employee is the subject of investigation by the Police which may lead to charges being preferred and this could affect the tenability of his/her employment with the School/Authority.
  - (c) the employee appears to be incapable of undertaking his/her duties without presenting a serious risk to himself/herself or to others, a further act of misconduct may have taken place, the employee has on record a current final warning and it is considered that he/she should be removed from work because of the risk to the employee, colleagues or other persons, or the work of the School.
- 8.7 Suspension will be confirmed in writing as soon as possible, making it clear why suspension has been invoked and what its likely duration will be, if known. (see example letter LET/SCH/057)
- 8.8 Suspension will be in accordance with the terms of the disciplinary procedure, the employee's contract of employment and conditions of service for the employment groups to which the employee belongs.
- 8.9 Suspension can only be ended by the Governing Body (the Chair may undertake this function on their behalf). In the case of Community Schools, the Local Authority must also be informed that suspension has ended.
- 8.10 Every effort must be made to minimise the period of time for which an employee is suspended and in deciding to suspend, the Head Teacher/Governing Body should be conscious of the need not to pre-judge any disciplinary decision that will need to be considered later.

## **9.0 APPEALS**

- 9.1 There shall be a right of appeal against all warnings and dismissals.
- 9.2 If the employee wishes to appeal, they must do so, within 10 days of the date of the letter informing them of the outcome/decision. This must be in writing to the person who notified them of the decision, stating the grounds upon which they want to appeal. ie:
- The perceived unfairness of the judgement
  - The severity of the penalty
  - New evidence coming to light
  - Procedural irregularities

- 9.3 An Appeals Panel should be formed from the Governing Body to include three members of the Governing Body who were not involved in making the original decision. The Appeals Panel should also be advised by a representative of Human Resources but who shall not be entitled to vote in any proceedings of the Panel.
- 9.4 The Chair of the Appeal Panel must write to the employee inviting them to the appeal hearing and the employee must take all reasonable steps to attend.
- 9.5 The appeal hearing will be arranged as soon as practicable and the employee will receive a minimum of 10 working days notice of the date of the appeal hearing. This period may be reduced only by mutual agreement.
- 9.6 The hearing should proceed in accordance with the procedure for appeal hearings (Appendix F).
- 9.7 Following the appeal hearing, within five working days, the employee will be written to and informed of the outcome.

## **10.0 TRADE UNION REPRESENTATIVES**

- 10.1 Normal disciplinary standards apply to employees who are trade union representatives.
- 10.2 In normal circumstances no action under the procedure should be taken against a representative of a recognised trade union without taking HR advice nor until an appropriate branch official or full time officer has been notified.

## **11.0 ATTENDANCE AT, AND REPRESENTATION DURING, INVESTIGATION AND/OR DISCIPLINARY PROCEEDINGS/APPEALS**

- 11.1 Employees may arrange to be accompanied or, as appropriate, represented, by their trade union representative or a colleague from school. This applies to all formal investigatory meetings/interviews, at all formal stages of the procedure.
- 11.2 Where unreasonable delay might be caused by awaiting the availability of the chosen representative and this has been discussed with the appropriate branch official or full time officer, management reserves the right to proceed with the hearing/appeal on the date set and to advise the employee to seek an alternative representative.
- 11.3 Where the employee refuses to attend, or fails to attend without giving an acceptable reason, an investigatory meeting/interview, a disciplinary hearing and/or an appeal, the Investigating Officer/Head Teacher/Panel concerned may proceed with the investigation/hearing/appeal and make a decision based on such evidence and information as is available to them at the time.

## **12.0 DISCIPLINARY RECORDS/TIME LIMITS**

- 12.1 Except where it is otherwise decided in special circumstances the following time periods will normally apply to warnings given and the Head Teacher/Chair of Panel should select an appropriate time period taking into account the type of offence:

- (a) Formal Warning - 6 months
- (b) Final Warning - 12 months

12.2 In the case of all warnings, a longer period of time may be specified by the Head Teacher/Chair of Panel, after taking advice from Human Resources.

12.3 Records will not be taken into account for disciplinary purposes after the above time periods have been exhausted providing that no further disciplinary action has been taken during the time period.

12.4 Where an employee, who has received a warning, which requires an improvement of standards of conduct, is subsequently absent from work by reason of sickness during the currency of the warning, the timescale specified in the warning will be extended to reflect this. This will ensure that the full warning period is applied in the work situation and give the employee the fullest opportunity to demonstrate that he/she is capable of complying with reasonable standards set.

### **13.0 PROBATIONARY PERIODS**

13.1 During the probationary period of an employee the School's probation procedure/Teachers' Induction Procedure, and not the disciplinary procedure, will apply.

### **14.0 AGGRAVATING CIRCUMSTANCES**

14.1 Where an employee has a current warning on record in respect of the same or related matter, and further disciplinary action is being contemplated against the employee, the current warning may be taken into account in deciding at which stage in the formal procedure disciplinary action is to be taken. In these circumstances advice should be sought from Human Resources.

### **15.0 OFFENCES AGAINST THE LAW**

15.1 Where it is believed that an employee may have committed an offence against the law within employment this will be considered in the employment context within the disciplinary procedure. The Human Resources Director and the Director of Legal Services will be consulted in such instances and will advise how the matter should be reported to the Police.

15.2 The fact that an employee has been cautioned, charged, remanded in custody or has been convicted of an offence outside employment shall not immediately be regarded as an automatic reason for disciplinary action or dismissal. In such cases consideration must be given as to whether the offence is one which has any connection with, or bearing upon, the employee's work and/or the tenability of his/her continued employment with the School. Where appropriate the disciplinary procedure should be followed to consider the matter.

15.3 In such cases, where a disciplinary hearing is held, disciplinary action need not necessarily await the outcome of criminal court proceedings since this involves a different standard of proof but the merits of proceeding or delaying should be considered in each individual case.

## **16.0 EQUAL OPPORTUNITIES**

- 16.1 The School has a legal obligation to avoid and eliminate discrimination by ensuring that the principle of equality in employment is observed, both in the way we recruit, promote and develop existing and potential employees and in the way we behave towards each other.
- 16.2 In accordance with equal opportunities legislation and the Council's equality in employment policy, unjustified discrimination, harassment or bullying on any grounds, whether intentional or unintentional, will not be tolerated.
- 16.3 Complaints of discrimination will be investigated fairly and thoroughly and, where upheld, will be dealt with through the disciplinary procedure.

## **17.0 SICKNESS ABSENCE**

- 17.1 If an employee is declared medically unfit for work that does not necessarily mean that the employee is unfit to take part in the investigation or disciplinary process. This will depend upon the illness, the general circumstances and the likely duration of the illness. If it is felt that they are well enough to attend and they refuse to do so then they will be referred to the Council's Occupational Health Consultant for advice on whether the employee is able to take part in the investigation or the disciplinary process. If the employee is not well enough to attend advice should be sought from Human Resources. In these circumstances the employee's Trade Union Representative may attend on their behalf.

## **18.0 WHEN PROCEDURES OVERLAP**

- 18.1 Complications can arise when an employee feels that a disciplinary action is unfair or involves unlawful discrimination. However, disciplinary processes cannot be halted without good reason.
- 18.2 If an employee feels that he/she is being unfairly treated the matter should be raised in writing, with their line manager or the appropriate person dealing with the issue, and discussed at the first hearing.
- 18.3 If an employee feels that the process has been incorrectly applied or that the outcome has been influenced by inappropriate considerations, then an appeal should be made and the appeal mechanism will consider this.
- 18.4 If a grievance is raised by the employee after the disciplinary process has started and if the grievance is related to the disciplinary process it can be considered as an appeal at the conclusion of the process. If it does not relate to the disciplinary process itself it should be considered separately under the grievance procedure.

## **Appendix A**

### **Gross Misconduct**

Gross misconduct is conduct of such a serious nature by an employee that the School could not tolerate the continuation of that employee at work and could not tolerate a repetition of such conduct. Gross misconduct may result in dismissal without notice or without pay in lieu of notice.

The list below contains examples of the type of conduct which will normally be considered to be gross misconduct.

The list is not exhaustive but serves simply as an indication for employees of the types of conduct considered by the School to be so serious as to merit dismissal without prior warnings.

### **Examples of Gross Misconduct**

- Insubordination, e.g. refusing to carry out contractual duties
- Physical violence
- Bullying, victimisation or harassment
- Deliberate damage to School/Council property
- Misuse of the School's/Council's property or name
- Bringing the School/Council into disrepute
- Incapability, whilst on duty, due to alcohol or illegal drugs
- Misuse of School/Council facilities e.g. e-mail, internet, telephones
- Negligence which causes or might cause unacceptable loss, damage or injury
- Deliberate or flagrant infringement of health and safety rules
- Serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998)
- Theft, fraud and/or deliberate falsification of records
- Failure to report any abuse of a child looked after by the Local Authority by a member of staff or other person having contact with the child
- Other conduct judged to be as serious as the above.

There may be occasions in gross misconduct when mitigating factors may need to be taken into consideration.

## **Appendix B**

### **Role of Human Resources Representative(s) in Disciplinary Matters/Appeals**

1. Human Resources can provide advice to Head Teacher/Governors on the application of the procedure at any stage.
2. A Human Resource representative will attend all formal stages of the procedure.
3. The role of Human Resources will be to assist in ensuring that correct procedural steps are taken and to provide advice based on authority-wide implementation of the procedure so as to promote consistency and fairness. This may involve asking questions for the purpose of clarification on matters which have been raised during the course of the disciplinary proceedings or hearing.
4. Any advice given by Human Resources must be considered before a decision is made, but they shall not be entitled to vote in any proceedings.

## **Appendix C**

### **Administration of Disciplinary Hearings**

1. When a disciplinary hearing is to be held under 5.2, the Chair of the hearing must inform the employee in writing, (marked 'Private & Confidential') and give reasonable notice of the date, time and place for the hearing (at least 5 working days notice to be given).
2. The letter should also contain sufficient details for the employee to understand the allegation or matter of concern, confirmation of the right of the employee to be represented at the hearing by their trade union representative or a colleague from work and the right of the employee to produce appropriate witnesses and/or submit written statements as evidence.
3. The letter should also refer the employee to the Disciplinary Policy, and that an employee cannot refuse or fail to attend the hearing without giving an acceptable reason to the Head Teacher/Chair of Panel.
4. It must be made clear in the letter that the outcome of the Hearing may be disciplinary action. (see example letter 5)
5. Where further written statements are to be submitted in evidence, the statement(s) should be copied to the Head Teacher/Chair of Panel and the employee as appropriate at least 3 working days before the hearing. This will save time at the hearing and also allow both parties reasonable time to consider the content on the statement(s).
6. Where witnesses are to be called by either party the number of witnesses and names involved should be confirmed to the other party at least 3 working days before the hearing so that administrative arrangements can be made to accommodate the witnesses and to alert each party to the involvement of witnesses.

## Appendix D

### Procedure for conducting Disciplinary Hearings

1. The procedure and sequence of events will be explained by the Chairperson (Head Teacher/Chair of Panel).
  2. The Investigating Officer shall put forward the management case and may call witnesses.
  3. Witnesses should be called into the hearing in turn to give their evidence. Having given the evidence and answered any relevant questions they should withdraw. Witnesses may also be called back into the hearing to clarify facts.
  4. The appellant or the appellant's representative shall have the opportunity to ask questions of the Investigating Officer and witnesses.
  5. The Head Teacher/Chair of Panel hearing the case shall have the opportunity to ask questions of the Investigating Officer and witnesses.
  6. The appellant or the appellant's representative shall put forward the case and call such witnesses as the appellant wishes.
  7. The Investigating Officer shall have the opportunity to ask questions of the appellant or the appellants representative and witnesses.
  8. The Head Teacher/Chair of Panel shall have the opportunity to ask questions of the appellant or the appellants representative or witnesses.
  9. The Investigating Officer shall have the opportunity to sum up the case.
  10. The appellant or his/her representative shall have the opportunity to sum up the case.
  11. The hearing should be adjourned. The Investigating Officer, the appellant, and his/her representative shall withdraw.
  12. During the adjournment the Head Teacher/Chair of Panel shall consider the decision, with advice from Human Resources.
  13. The hearing will re-convene. The decision of the Head Teacher/Chair of Panel will be communicated to both parties.
  14. The Head Teacher/Chair of Panel will confirm the outcome in writing, within 5 working days of the hearing.
  15. The letter must also, where appropriate, provide the employee with the right to appeal against the decision, advising them how they should appeal and that they should state their reasons for the appeal.
- NB** At any point during the hearing the Head Teacher/Chair of Panel may adjourn the meeting for a short period of time to seek clarification on relevant points.

## Appendix E

### Disciplinary Action Letters

**1. Letter confirming hearing** will be sent out by Head Teacher/Chair of Panel giving 5 working days notice of the hearing and will contain the following information:-

- Details of the allegation(s)
- Time, date and location of the hearing
- The right to be accompanied by a Trade Union Representative or a work colleague
- The outcome of this hearing may result in formal action (list possible outcomes)
- Requirement to attend

**2. Letters confirming disciplinary action** taken will be sent by the Head Teacher/Chair of Panel within 5 working days of the hearing and will contain the following information: -

- Details of the offence or behaviour
- Level of warning
- Confirmation of the period of time for which the warning will remain current
- Details of any action required of the employee
- Details of any assistance or training to be provided by management
- If appropriate, any period of time set for a review
- Confirmation that repetition of this, or related offences/behaviour, are liable to lead to further disciplinary action
- Details of the employee's right of appeal and how that may be exercised

**3 Letters of dismissal** will also be sent within 5 working days of the hearing and include: -

- The effective date of termination and whether notice or payment in lieu of notice is being given
- The reason for dismissal stated as precisely and clearly as possible
- A statement that formal notice of dismissal will be issued by the Council (*except Voluntary Aided and Foundation Schools*)
- Details of the employee's right of appeal and how this can be exercised.

## **Appendix F**

### **Appeals**

#### **1. Administration**

Appeals against warnings or dismissal should be notified to the person making the decision to be appealed against in writing, within 10 working days of the date of the letter confirming the disciplinary action. The employee concerned should lodge all appeals; other parties or representatives on behalf of the employee cannot lodge appeals. An appeal hearing will then be arranged and the employee will receive at least 10 working days notice of the hearing of an appeal and may be represented at this by a trade union representative or a work colleague. The notice period of 10 working days may be reduced only by mutual agreement. A fundamental aim of the appeals procedure is for the School not only to be fair but also to be seen to be fair in dealing with its staff. Where the procedure is silent on any point, which may arise during the course of the hearing, it is for the Appeals Panel to decide, in the light of any representations made by management and the employee and/or representative, what course of action should be followed.

#### **2. Appeals Procedure**

##### **(A) Representation and Attendance**

The normal procedure will be for the employee plus one representative and the manager to attend the hearing and present their cases. The management representative will usually be the Head Teacher unless he/she has acted as investigating officer or had involvement in the case in which circumstances the Chair of the original Disciplinary Panel will take this role. Witnesses will be called, in turn, to give evidence and will then leave the hearing. It is at the discretion of the Panel to permit either party to bring additional representatives/managers and to decide whether they may attend in an observer or participant capacity.

##### **(B) Constitution of Appeals Panel**

An Appeals Panel should be formed from the Governing Body to include three members of the Governing Body than that were not involved in the original Disciplinary Panel. The Appeals Panel should also be advised by a representative of Human Resources but who shall not be entitled to vote in any proceedings of the Panel.

##### **(C) Written Statements**

Both management and the employee will be invited to submit any additional information and/or reports. Where both parties have provided statements these will be exchanged 3 working days before the hearing.

##### **(D) Procedure for the Appeal Hearing**

- (a) The management representative shall state the case
- (b) Whilst stating the case, if appropriate, the management representative may call witnesses. The procedure for each witness shall be: -

- Management representative to question
  - Employee and/or representative to question
  - The Chair and Panel to ask any questions
  - Management representative to re-examine
  - Witness to leave the room
- (c) The employee and/or representative may ask questions of the management representative .
- (d) The Chair and Panel may ask questions of the management representative.
- (e) The employee and/or representative to state the case.
- (f) Whilst stating the case, if appropriate, the employee and/or representative may call witnesses. The procedure for each witness shall be: -
- Employee and/or representative to question
  - Management to question
  - The Chair and Panel to ask any questions
  - Employee and/or representative to re-examine
  - Witness to leave the room
- (g) The management representative may ask questions of the employee and/or representative.
- (h) The Chair and Panel may ask questions of the employee and/or representative.
- (i) The management representative to have the opportunity to sum up the case if he/she wishes.
- (j) The employee and/or representative to have the opportunity to sum up the case if he/she wishes.
- (k) The management representative, employee and representative to withdraw.
- (l) The Panel to deliberate recalling management representative, employee and representative only if clarification of evidence already given is required. In such instances both parties should be recalled even though clarification may be required from only one side.
- (m) The Chair shall announce the Panel's decision to both sides unless further time for deliberation is needed, in which case both sides will be advised of this and the decision advised in writing.
- (n) The decision of the Panel will be notified to both sides in writing within 5 working days of the appeal hearing.
- (o) The decision of the Panel is final.

**Notes:** The provision of summing up at (i) and (j) does not include the right to introduce new evidence at this stage in the procedure. If this becomes necessary, then the other side should be given the right of reply.

The hearing is not a court and witnesses should be questioned in a courteous and appropriate manner. They should be allowed to answer questions fully and not be interrupted unless there is a misunderstanding of the question or they stray from the matters under discussion.

Where points of clarification, which affect the understanding of the case being advanced, do need to be raised, the Chair may ask questions at any point during the proceedings but otherwise will raise questions at the appropriate stages.

Any matters of procedure not covered above will be for the Panel Chair to decide.

## **(E) Decisions**

On the basis of the evidence presented, the Panel may make a decision on the outcome.

Decisions generally will fall into two categories, namely:

- (a) not allowing the appeal in which case the employee's dismissal or warning is confirmed.
- (b) allowing the appeal in which case, if the Panel are of the view that different disciplinary action is necessary, they may consider one or more courses of action such as:
  - (i) formal warning in accordance with the School's disciplinary procedure
  - (ii) final warning in accordance with the School's disciplinary procedure
  - (iii) redeployment/demotion to another post,

The above list is not exhaustive.

The Panel shall give its decision in the presence of both parties and the HR representative, and any party may seek clarification of this decision.