

William Cassidi Church of England Primary School

Disciplinary Procedure Policy Statement

'Life in all Fullness'
(John 10:10)



As a school, we want to provide children with the very best education. To let them experience life in all its fullness and living with all their heart. Our main core value of love underpins all that we do. Our school is Christ-centred and our core Christian values of love, respect, courage, service and resilience flow through every aspect of school life. It is on this bedrock that we provide an excellent education for the children who attend our school. We want every child to be the very best that they can be and to recognise that they are precious, loved and valued.

Introduction

William Cassidi Church of England Primary School is a community based school with a distinctive Christian ethos. We are a voluntary aided Church of England Primary School and a local authority maintained school. Our school vision is rooted in John 10:10 *'I have come that they may have life and life to the full'*. The school's core Christian values of: love, respect, courage, service and resilience underpin all that we do. The school vision and values are inclusive of all members of our school community and create the culture of the school.

This policy sets out the disciplinary procedure and processes in our school and has been created in partnership with Stockton LA and Newcastle and Durham Diocese.

Disciplinary Procedure for Schools

A high standard of behaviour is essential for the efficient and orderly conduct of the School and for the safety and well-being of its entire staff. The Headteacher is responsible for promoting and maintaining that standard.

For the purpose of this document, misconduct will be assessed by reference to school codes of conduct, contractual obligations and other relevant disciplinary rules laid down by the school. Misconduct concerns may be about a single matter or a number of separate issues.

The procedure sets out both general principles, which will apply to the way in which the school disciplinary procedures will operate and in some instances, the detailed steps that will have to be followed.

The procedure is designed to help and encourage all employees to achieve and maintain appropriate standards of conduct. The main purpose of the disciplinary procedure is to encourage an employee, whose conduct is unsatisfactory, to improve. Disciplinary action may, could ultimately lead to dismissal.

This disciplinary procedure has been established by the Governing Body in line with the powers given under the School Staffing (England) Regulations 2009 (updated 2012). In establishing these procedures, care has been taken that the procedure is consistent with the Education Act and Regulations, employment legislation and codes of practice, as well as good HR practice.

The Headteacher will have the delegated responsibility to take disciplinary action up to initial dismissal decisions, following which there will be an opportunity to appeal to a committee of governors.

The procedure should not be viewed primarily as a means of imposing sanctions or as necessarily setting out procedures leading to dismissal or a determination to cease working at the school. Its aim is to ensure that employees of the school covered by this procedure are treated fairly and consistently and that, particularly where an employee's job is at risk, proper and adequate procedures are observed before any decision is taken.

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended for a short period to consider the implications of the grievance on the disciplinary by the Investigating Officer. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently. If the grievance concerns matters that are unrelated to the disciplinary, then a separate process under the grievance procedure should commence. In almost all cases, the grievance should be considered after the completion of the disciplinary. The exception here would be where there is a long delay in the progress of the disciplinary e.g. where the conclusion of police proceedings is awaited.

Scope of Procedure

This disciplinary procedure applies to all staff who are permanent employees or directly employed fixed term staff within the establishment of a school, regardless of length of service, whether full-time, part-time, in all teaching, support posts and Leadership roles

Where an employee is lacking in skills and knowledge and their performance means they are not working to the required standard Headteachers should refer to the Capability Policy in an aim to improve performance.

In relation to an attendance issue due to illness the Attendance Management Policy will apply. However on occasions where an employee is subject to the Attendance Management Procedures a conduct issue may arise. In such cases any information obtained during the Attendance Management process may be used as evidence in any subsequent disciplinary investigation.

Conduct issues that arise as a result of a health and wellbeing issue or disability will be considered in line with the Equality Act and the schools Improving Working Lives policies and procedures i.e. Substance Misuse Policies, and all reasonable adjustments will need to have been considered prior to implementing the disciplinary formal process.

This policy will however apply in relation to issues that arise related to the lack of a necessary qualification, contravention of law and some other substantial reason (SOSR). Examples include but are not limited to, lack of qualification, or where an employee is barred by the Independent Safeguarding Authority or where there are personality clashes between employees making it impossible for them to work together.

Representation

The employee has a statutory right to be accompanied by a recognised trade union representative or by a work colleague at any meeting, hearing or appeal associated with this policy.

A Trade Union representative who is not an employed official must have been certified by their union as being competent to accompany the employee.

It is the responsibility of the employee to arrange for their representation including notifying the representative of any meeting, hearing or appeal dates in good time and provide copies of all relevant documentation. Where the employee's chosen Trade Union representative or work colleague is not available at the time proposed for the meeting, hearing or appeal, the employee may propose an alternative time. If the alternative time is reasonable and falls within 5 working days after the original date proposed, the meeting, hearing or appeal must be postponed to that time.

The Trade Union representative or work colleague may also address a meeting, hearing or appeal to present the employees case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee, but may not answer any questions on their behalf.

It is good practice for management to try and agree a mutually convenient date for the meeting with the employee and their Trade Union representative or work colleague to ensure that meetings do not have to be delayed or postponed.

Schools will also need to consider whether any additional support for the employee is required, for example when a physical disability or other special need is identified.

Discipline of Employee Representatives

Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure will be followed. Depending on the circumstances however, it is advisable to discuss the matter at an early stage with an official employed by the union only after obtaining the employee's agreement.

Establishing the Facts

The facts of the case should be clarified without any unreasonable delay in order to establish whether it is a potential disciplinary matter and further investigation is required.

The fact finding exercise where necessary may be carried out by the Headteacher or a senior leader appointed by the Headteacher. If the Headteacher is the subject of the potential disciplinary issue the fact finding may be carried out by the Chair of Governors who should seek advice from the HR Advisory Service.

Informal Action

Many potential disciplinary issues can be resolved informally and employers and employees should always seek to resolve disciplinary issues in the workplace. Problems dealt with early enough can be dealt with informally, whereas delay can make things worse as the employee may not realise that they are below the expected standard.

Informal action may often be a more satisfactory way of dealing with a breach of rules than a disciplinary meeting if it takes the form of a discussion with the objective of encouraging and helping the employee.

The meeting is aimed at pointing out the shortcomings in conduct, attitude or behaviour and encouraging improvement. Criticism should be constructive, with the emphasis being on finding ways for the employee to improve and for the improvement to be sustained as follows:

- Ensure the employee is provided with a copy of the Disciplinary Policy or directed to the School's Handbook where the Policy is available;

- Arrange to meet in private with the employee to discuss the issues or concerns;
- Where it has been identified that improvement is required ensure that the employee understands what needs to be achieved, how their conduct will be reviewed and the monitoring period;
- Ensure the employee understands the consequences if their conduct does not reach the required standard;
- Following the meeting, write to the employee (retain a copy on the employee's personal file as it may be used in future misconduct) confirming the management guidance discussions, actions required, timescales for review (where appropriate), including the consequences of failure to improve which could result in disciplinary action.

Mediation

In certain instances mediation may assist in relation to disciplinary issues and can be very advantageous to all parties. In such cases, subject to the agreement of all parties, mediation can be arranged to try to settle the matter. This option could offer a speedy resolution as opposed to a protracted process.

It is therefore essential that this option is carefully considered in the appropriate circumstances. The HR Advisory Service will be able to provide further guidance.

Investigation

When a disciplinary matter arises the following procedure will apply:

The appropriate person under the scheme of delegation will investigate the matter as soon as possible. This will normally be a senior member of staff, or in the case of a Headteacher under investigation, and in other extreme cases, an Officer of the Local Authority or external consultant assisted by a representative from the HR Advisory Service.

The Investigating Officer will promptly carry out a thorough investigation into the allegations as the circumstances will allow. This will include a minimum of gathering the evidence from the relevant parties and an investigation meeting with the employee in order to establish the facts for a subsequent report.

The Investigating Officer will inform the employee in writing, prior to the investigation meeting giving the following information:

- An outline of the allegations;
- A copy of the Disciplinary Policy;
- Time, date and venue of the investigation meeting (taking into account any special needs of the parties);
- The right to be accompanied at all meetings under the formal procedure by a Trade Union representative or work colleague;
- Details of who will be in attendance.

Notes will be taken during all meetings, hearings and appeals by an identified note taker. The recording of these discussions by any other device, i.e. mobile telephone is strictly prohibited.

Where third parties and witnesses are interviewed it will be made clear that their statement may be presented at a formal hearing and they may be required to attend the hearing. Witness statements will be shared with the employee concerned, their representative and the Headteacher/Hearing Committee of the Governing Body. Should the case go to appeal and/or employment tribunal, witness statements will also be disclosed.

The investigating officer will adjourn any meeting/investigation if other areas of concern require investigation.

On completion of the investigation, the Investigating Officer will provide a report including the findings and confirm the decision to the employee in writing, within a reasonable time scale. The report will recommend one or more options from the list of actions below:

- No further action;
- Appropriate training provided to the employee;
- Management guidance;
- Progression to a disciplinary hearing to consider the matter further.

The Investigating Officer will confirm the recommendation of the investigation, confidentially to the Headteacher/Chair of Governors in the first instance.

Where additional training or management guidance is required the investigation officer will liaise accordingly to make arrangements for this at the earliest opportunity. Any management guidance provided will be confirmed in writing and a copy will be retained on the employee's personal file and can be referred to in the case of future acts of misconduct. There is no right of appeal against management guidance.

In the case of a Headteacher, the Investigating Officer will submit a report including findings and recommendations to the Chair of Governors or another appropriate member of the Governing Body, as to whether there is no further action to be taken, whether management guidance is appropriate or that a Hearing Committee of the Governing Body should consider the matter.

Persons directly involved in the investigative process may present a case or appear as a witness, but may not give advice to or sit on the subsequent Disciplinary Hearing Committee.

Sickness Absence During Formal Process

If at any point in the procedure an employee is absent due to illness the investigation will continue, as far as possible, i.e. by interviewing witnesses and collecting any information relevant to the case.

Depending upon the nature of the illness some employees who remain too ill to attend work may be well enough to attend investigatory meetings or a disciplinary hearing. Where this is not the case and there is no clear timescale for fitness to participate in the formal process, medical advice will be sought from Occupational Health.

In the event that the employee is unfit to participate in the process, the absence will be managed as follows:

- Where an investigation has been completed and a hearing date set, the hearing date may be postponed and re-arranged;
- If the employee is unable to attend the re-arranged hearing they may, if they wish, submit a written presentation to the Headteacher or Hearing Committee;
- The Trade Union representative may attend the hearing, to present the case, in the absence of the employee;
- In the event that the employee does not attend the re-arranged hearing it may proceed in their absence and a decision made, based on the evidence available;
- Following the re-arranged hearing, which will determine the outcome, suspension, if applicable, will cease and the absence recorded as sickness.

Suspension

If following the initial fact finding the alleged misconduct is thought to involve serious or gross misconduct, the Headteacher or Chair of Governors has the authority to suspend the employee. Similarly, if during the course of an investigation the investigation officer believes that a serious breach of discipline may have occurred, they may recommend suspension of the employee. Where the employee holds more than one post in the same school the suspension will apply to all posts.

Suspension should only be considered in extreme circumstances and where the employee's continued presence on site could for example:

- Impede the investigation (e.g. they may influence witnesses or interfere with relevant evidence);
 - Represent a serious risk to the safety of others or themselves;
 - When an employee is charged with a serious criminal offence that is potentially inconsistent with their position;
 - Seriously undermine the reputation of the school;
 - To avoid a repetition of the alleged misconduct;
 - Where there is a loss of accreditation/statutory provision or disqualification essential to the job
- Or
- When the allegation is potentially gross misconduct that may lead to dismissal.

Where appropriate the employee's version of events and response to the initial allegations may be considered before the suspension is initiated.

As an alternative to suspension the Headteacher or Chair of Governors should carefully consider temporary arrangements including:-

- variations to duties
- working arrangements
- working location

When considering the suspension of an employee, the Headteacher or Governing Body shall immediately inform the Director of Children's Services, The Director of Education at Newcastle and Durham Diocese and a representative of the Schools HR Advisory Service to seek advice.

An employee can only be suspended by the Headteacher/Chair of Governors or another teacher with delegated authority in his/her absence, or in the case of the Headteacher, by the Chair of Governors.

If it has been agreed to proceed with suspension following the fact finding, and discussion, the Headteacher/Chair of Governors should agree the practical arrangements with HR.

Consideration should also be given to the Headteacher/Chair of Governors arranging to remove the employee's access to the school's IT network and systems including the school email account.

During the suspension meeting and time permitting, the employee may be accompanied by a certified Trade Union representative or work colleague. The employee will be informed of the nature of the allegations and the reason for suspension. The employee may make representation in respect of the proposed suspension.

The decision to suspend will be confirmed in writing within five working days by the Headteacher/Chair of Governing Body. The letter of confirmation will include:

- The reasons for the suspension and the nature of the allegations;
- Alternatives to suspension that were considered and why they were not appropriate;
- The actions that will be taken during the suspension;
- The reviewing arrangements for the suspension;
- A named contact and support details.

Only the Chair of the Governing Body or a Governor nominated by the Chair can end the suspension.

On occasion more urgent action is necessary and if this is the case the employee should be asked to leave the premises and escorted from the site. The employee should be allowed to make representations at a later stage and written confirmation of the suspension will be forwarded within 5 working days.

The powers given to the Governing Body in this procedure is without prejudice to the Education (School Government) Regulations 1999, which provides that the Chair or Vice-Chair of a Governing Body may exercise the functions of the Governing Body in cases of urgency.

During suspension an employee should not:

- make contact with other employees or persons associated with the case;
- return to the workplace unless instructed to do so.

Throughout the period the suspended employee will:

- be paid their full pay;

- ensure they are available at all times to attend meetings and assist in the investigation;
- have a named contact person, who is not involved in the case as a point of contact during the period of suspension;
- receive regular contact throughout the suspension period;
- have access to counselling if required.

Formal Disciplinary Procedure

If the Investigating Officer is satisfied that the complaint warrants a hearing, they will inform the employee and a Disciplinary hearing will be arranged.

The Headteacher will normally hear the case. However if the Headteacher has been directly involved in the procedures leading up to the disciplinary action, or has instigated a proposal to dismiss or is a witness to the conduct or behaviour relating to the disciplinary allegations, the case will be heard by a Governing Body delegated Hearing Committee of at least three governors.

If the Headteacher is being considered for disciplinary action the case will normally be delegated to a Governing Body Hearing Committee of at least three governors.

If the hearing is delegated to a Governing Body Hearing Committee there may be circumstances when collaborative arrangements with another governing body may be used to appoint the Hearing Committee. These arrangements are made within the Collaboration Arrangements (Maintained Schools and Further Education Bodies) (England) Regulations 2007.

Hearing Arrangements

The employee will be informed in writing of the arrangements and also receive the following -

- A letter confirming the date, time and venue of the hearing providing at least 5 working days notice from the date of the hearing;
- Details of who is hearing the case, e.g. the Headteacher, or the names of the Governors Hearing Committee members (but this may be subject to change);
- The specific nature of the allegations to be considered;
- The right to produce written statements and to bring witnesses;
- The right to representation;
- The names of any management witnesses;

- Copies of evidence submitted by the Investigating Officer including a summary of the findings contained in the investigation report;
- The possible outcome if the allegations are proven i.e. warnings, dismissal;
- A copy of the Disciplinary Procedure.

The Employee will be required to:

- inform the Headteacher/Governing Body Clerk of the name of their representative and the names of any witnesses they will be calling at least three working days prior to the Hearing;
- provide copies of any documentation or evidence at least three working days prior to the Hearing to the Headteacher/Governing Body Clerk.

At the Hearing

A representative of the Schools HR Advisory Service should attend the hearing and where there is a possibility that dismissal will be the outcome, a representative of the Corporate Director may attend the meeting to provide advice. Any advice given by the representative must be considered by those concerned before a decision is made; but they will not be party to the decision. In the majority of cases the representative of the Corporate Director will be from the Human Resources Advisory Service who will attend to provide HR advice but will not be party to any decision.

Where the allegation is being considered by a Governors Hearing Committee, the Headteacher (except where they are the subject of the disciplinary or have been involved in the investigation as a witness) may attend the meeting to give advice.

If the employee fails to attend the hearing, the case will be heard in their absence, unless acceptable reasons have been presented in advance and it is agreed to postpone the hearing to a later date. Please refer to Section 9.0 for sickness absence during the formal process.

Copies of the allegations and all relevant documents including those submitted by the employee concerned must be available for the Headteacher/Hearing Committee to use at the hearing.

It is for the Headteacher/Hearing Committee to decide whether late evidence from either side is acceptable. The Hearing Committee should seek the views of both sides when considering whether to accept late

evidence, and consider the reasonableness and fairness of the decision. If late evidence is accepted in the form of written documentation, it would be usual to allow reading time by way of a brief adjournment.

The Headteacher/Hearing Committee must ensure that the employee receives a fair and impartial hearing. This should include encouragement to be represented or accompanied, allowed to present their case or have it presented, allowed to bring witnesses and to question the management presenter and any management witnesses.

The Hearing Procedure

The procedure in Appendix I sets out the order of proceedings. The responsibilities and role of those attending the Hearing are detailed below.

The Headteacher/Chair of the Hearing Committee will be responsible for:

1. Introducing all parties;
2. Explain the purpose of the hearing and how it will be conducted in accordance with Appendix I;
3. Confirming the disciplinary allegations;
4. Confirming that all parties have the same documentation;
5. Confirming the number and names of witnesses attending from both parties;
6. Requesting if any points of clarification are required;
7. Ensuring that all presentations, evidence and questions are relevant;
8. Direct the hearing in an appropriate manner.

The Investigation Officer will:

- Present the facts of the case, providing evidence and may call witnesses during the presentation;
- Respond to questions from the employee or the trade union Representative;
- Respond to questions from the Headteacher/Hearing Committee and HR Representative.

The Employee and/or representative will:

1. Present their case, providing evidence and any mitigating circumstances calling any witnesses during the presentation;
2. Respond to questions from the Investigation Officer;

3. Respond to questions from the Headteacher/Hearing Committee and HR Representative.

Note - Any witnesses may be asked questions from all parties involved in the hearing and will normally depart after their evidence has been concluded. There may however be occasions when witnesses are called back into the hearing to clarify facts.

Summaries:

1. The Headteacher/Chair of the Hearing Committee may ask the investigation Officer and employee/representative to summarise their respective cases; No new evidence can be submitted at this point.

Decisions:

1. The investigation officer, the employee and their representative will withdraw from the hearing to allow the Headteacher/Hearing Committee to consider the evidence and determine any action;
2. In exceptional circumstances all parties may be recalled to answer further questions or clarify facts;
3. The Chair of the Hearing may adjourn the proceedings at any stage if this appears necessary or desirable. If adjourning for the purpose of enabling further information to be obtained, the nature of that information will be specified. Any adjournment will normally be for a stated period.

Once the Headteacher/Hearing Committee are satisfied that all the relevant evidence has been heard then the committee must reach a decision and convey the decision to the employee and representative. All parties other than the assigned officer advising the Headteacher/Hearing Committee and note taker shall withdraw when the decision is considered.

Before deciding what disciplinary sanction to impose, the Headteacher/Hearing Committee should consider whether the employee has been subject to any previous disciplinary action and whether any warnings are still current. The Headteacher/Hearing Committee should also consider any mitigating factors that may have been presented during the Hearing.

Codes of conduct and action taken in similar cases in the past may be considered and representations as to whether the proposed action is reasonable in the circumstances.

The Disciplinary Action

The decision will usually be given verbally to the employee in the presence of their representative. However, this may be varied by mutual agreement. The decision will also be confirmed in writing within a reasonable time scale.

The possible outcomes arising from a disciplinary hearing are:

No further action required

- This would normally apply when the allegations/incidents are clearly not proven and no misconduct has taken place;
- The letter may include reference to the employee's expected standards of behaviour in order to avoid further allegations or incidents which may lead to disciplinary action;
- The Headteacher/Hearing Committee may recommend development activities and these should include a monitoring period for reviewing progress;
- All references relating to the matter will be removed from the employee's personal file;

Management guidance

- Such a sanction would be appropriate for more minor breaches of conduct;
- The letter confirming the decision should clearly detail the expected improvement in behaviour/conduct;
- The Headteacher/Hearing Committee may also set timescales and review periods for an improvement in standards of behaviour which will be detailed in the decision letter.

Written warning (as distinct from management guidance may only be given following a disciplinary hearing)

- The sanction will be issued for serious matters where an employee is found guilty of the allegation(s) and misconduct. Such a sanction will normally be issued for a first offence of misconduct (other than gross misconduct and a minor breach of conduct);
- The letter confirming the decision will set out the nature of the misconduct, any improvements and the change in behaviour required;

- A written warning may also be appropriate for repetition or continuation of an offence which had previously resulted in informal discussions but have failed to be curtailed or resolved;
- In addition to the warning the Headteacher/Hearing Committee may include supplementary sanctions e.g. the necessity to attend specified training;
- The employee will be informed that the warning is part of the formal disciplinary process, and the consequences of any further misconduct could be a final written warning and ultimately, dismissal;
- The right of appeal will also be included in the decision letter including the procedure for lodging an appeal and the time limits (see paragraph 16 - 18 below).

Final written warning

- This sanction could apply where there is a failure to improve or change behaviour following a written warning, or where the conduct is considered to justify a final written warning in its own right due to the nature and seriousness of the behaviour or actions;
- It may also be appropriate where the offence could have warranted dismissal but the Headteacher/Hearing committee concludes this is not appropriate in all the circumstances (including having regard to any mitigating circumstances);
- The employee will be made aware of the school's expectations for their future conduct in the decision letter which will set out the nature of the misconduct;
- The employee will also be informed in the letter the consequences of any future misconduct, which could result in their dismissal;
- The right of appeal will also be included in the decision letter including the procedure for lodging an appeal and the time limits (see paragraph 16 - 18 below).

Dismissal

Dismissal with notice

If the employee's conduct still fails to improve, the final stage in the disciplinary process will be dismissal. The employee will be informed of the reasons for the dismissal, the date on which the

employment contract will terminate, the appropriate period of notice and their right of appeal.

Dismissal without notice (Gross misconduct)

Some cases of misconduct are so serious they may be termed gross misconduct. In such cases the employee may be dismissed without notice (summary dismissal) and without reference to any prior warnings. (Examples are provided in Appendix 4).

Gross misconduct is regarded as misconduct of such a nature that it fundamentally breaches the contractual relationship between the employee and employer, making any further working relationship or trust impossible.

If the appropriate sanction is dismissal the notice of dismissal can only be issued by the Director of Children's Services and Diocesan Director for Education.

Alternative to Dismissal

If appropriate as an alternative to dismissal an employee may be demoted and/or transferred. An alternative post must be available and agreed by all parties. If this option is agreed this action should be linked to a final warning. If the option is not accepted by the employee the conclusion and outcome of the Hearing will be dismissal.

Written notification to the Employee

The written notification from the Headteacher/Hearing Committee of their decision will include the following:

- The precise nature of the misconduct where proven;
- A summary of the key points of the basis of the decision;
- The period of time given for improvement, if appropriate and the standard of improvement expected;
- The disciplinary sanction being applied and, where appropriate, how long any sanctions will last;
- An indication of the likely consequences of further proven misconduct;
- Information about the employee's right of appeal, including the process and timescales.

Duration of Warnings

The following time limits for warnings will apply:

- First written warning - 12 months
- Final written warning - 18 months

After the expiry of any warning period and the employee's conduct is satisfactory, the warnings will be removed for the purpose of the employment relationship in general, e.g. for promotion, or selection for training courses. A valid record of employment history will be retained on the employee's personal file.

In relation to any further acts of misconduct on the part of the employee, if such misconduct is similar or related in nature to previous misconduct, then irrespective of the time limits above, previous offences may be taken into account in determining whether disciplinary action should be taken.

Appeal

An employee can appeal against any formal action taken as a result of this procedure. All appeals will be conducted as a full re-hearing of the case and will consider the grounds for appeal provided by the employee. The Appeal Committee may reduce, nullify or confirm the decision.

Employees may appeal in writing against the following disciplinary sanctions:-

- Written warnings
- Supplementary sanctions (as outlined in 15.4)
- Dismissal

on the grounds that:

- The perceived unfairness of the decision
- Unfair procedures were used
- New evidence that has come to light

Any appeal must be sent to the Chair of Governors. A pro-forma will be included with the written notification of formal action, on which the employee can give notice of appeal and must include reasons of the grounds of appeal. Notice of appeal must be received within 5 working days of receipt of the decision letter. This time limit will be strictly observed.

Arrangements for the Appeal will be made on receipt of the appeal request. Wherever possible the Appeal should normally be heard within 20 working days of the lodging of the appeal and the employee should have at least 5 working days notice of the Appeal Hearing.

The Appeals Committee

An Appeals Committee should be formed from the Governing Body to include no fewer members of the Governing Body than that of the Disciplinary Hearing Committee whose decision is subject to appeal. There may have been circumstances where collaborative arrangements have been used for the Hearing Committee. In such cases the Appeal Committee may also need to be appointed in the same way. A representative of HR should also assist the Appeals Committee but the representative shall not be entitled to vote in any proceedings of the Committee.

The governors appointed to the appeal committee must not include any members of the Disciplinary Hearing Committee who were involved in making the original decision.

All papers presented to the hearing, together with the decision of the Headteacher/Chair of the Hearing Committee and any subsequent correspondence must be available to the Appeals Committee. Any new evidence, which the employee wishes to introduce, should be copied to all parties at least 3 working days in advance of the Appeal Hearing. A decision will be made by the Appeals Committee if on receipt of new evidence from the employee that it will be accepted, or whether further investigation is required. In the latter case it will be referred back for investigation and consideration by the original Hearing Committee. All parties will be informed accordingly.

At the Appeal Hearing

The procedure for the Appeal Hearing will be the same as the Disciplinary Hearing Procedure. The Appeals Committee will deliberate the grounds for the appeal in private. The Committee will pay particular attention to any new evidence that has been introduced by the employee and hear representations from both management and the employee or representative in order to determine whether the decision of the hearing was fair and reasonable in view of the evidence available.

The Appeals Committee may decide that further investigation is required due to new evidence and therefore the Appeal Hearing will be adjourned to allow for further investigation.

The decision of the Appeal Committee is final and binding on all parties. The decision replaces the original decision which must not be a greater sanction than that of the original decision and must be notified to the employee and for Local Authority maintained and controlled schools, the Corporate Director of Children's Services, in writing.

If an appeal against a decision to dismiss is not upheld, written notification must be submitted to the Director of Children's Services in the case of a Local Authority maintained and controlled school, who will then issue the outcome of the appeal.

Allegations Against Staff in relation to Child Protection Issues

If a complaint against an employee relates to a child protection issue then it is essential that the investigator contact the Local Authority's Designated Officer (LADO) at the outset to discuss how to proceed. The outcome may be that an allegations strategy meeting is required and the LADO will follow procedures in accordance with guidance in the "Procedures for Working Together to Safeguard Children in Stockton-on-Tees" and Keeping Children Safe in Education.

If the allegation is substantiated and the employee is dismissed or the employee resigns, leaves or otherwise ceases to provide their service it will be necessary to make appropriate referrals. Consultation will be required by the LADO and the Headteacher or Chair of Governors (in cases relating to the Headteacher) plus the Investigating Officer/HR Adviser, in order to consider the referral to the appropriate professional bodies. The reason for the referral to the appropriate professional bodies is to allow such bodies to consider barring the employee from further work or have conditions imposed in respect of working with children.

Alleged Criminal Offences

If an employee is charged with, or convicted of a criminal offence, this is not normally in itself reason for disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with their employer and work colleagues. The disciplinary procedure will only be instigated where there are reasonable grounds for believing that the

nature of the activities is sufficiently serious to have an adverse effect on the ability of, or confidence in, the employee to carry out their duties properly.

Where an employee is alleged to have committed a criminal offence and Police investigations are underway, disciplinary proceedings can be taken and a decision implemented in accordance with this procedure before Police investigations are completed.

The School/Local Authority will normally wish the Police to independently prosecute offenders where financial impropriety at work is discovered, in addition to whatever disciplinary action is felt appropriate.

Professional Misconduct

In cases of professional misconduct, if the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide their services, consideration (by the Headteacher/Chair of Governors) should be given to notifying the relevant professional body, e.g., Teacher Regulation Agency (TRA). This consideration will also be necessary in respect of a referral to the Disclosure and Barring Service (DBS) who will determine whether the employee is included on the barred lists.

In respect of the Disclosure and Barring Service (DBS) in order to satisfy the legal requirements a referral will be made if an employee has caused harm or poses a future risk of harm to children or vulnerable adults.

In respect of any employees who choose to resign any future requests for a reference from the Headteacher/Chair of Governors must reflect the findings of the investigation, the conclusions drawn by the investigation team and that the employee chose to resign.

Misconduct outside working Hours

Misconduct relating to matters involving the employee outside working hours may also result in disciplinary action if it involves an activity or offence that is likely to affect the reputation of the School or the employee's ability or suitability to carry out their duties at work effectively.

The maintenance of accurate and contemporaneous records is essential, particularly in the event of referral to an Employment Tribunal. Notes are not necessarily verbatim, and there is no requirement for agreed

minutes, it should be noted that consideration by an employment tribunal might be an extended time after the matter was considered internally.

Records should be held in a secure and confidential manner, often the issues raised by an employee are particularly sensitive and it is essential that information is kept in accordance with GDPR.

DISCIPLINARY PROCEDURE FOR SCHOOLS PROCEDURE FOR A HEARING

1. The Management representative to present the facts of the case and may call witnesses.
2. The employee or their representative to have the opportunity to question the Management representative and any witnesses about the facts provided.
3. The Headteacher/Hearing Committee to have the opportunity to question the Management representative and any witnesses.
4. The employee or their representative to put their case and to call such witnesses as he/she wishes.
5. The Management representative to have the opportunity to ask questions of the employee or their representative and witnesses.
6. The Headteacher/Hearing Committee to have the opportunity to ask questions of the employee or their representative, or the witnesses.
7. The Management representative to have the opportunity to sum up their case (No new evidence should be submitted at this point).
8. The employee or their representative to have the opportunity to sum up their case (No new evidence should be submitted at this point).
9. The Management representative and the employee and their representative to withdraw.
10. The Headteacher/Hearing Committee to consider the facts presented to them.

The hearing may also be adjourned at the deliberation stage, in order to allow for further investigation if the Headteacher/Hearing Committee feels that there are points that need clarification. An opportunity may be given to re-examine the evidence/witnesses.

DISCIPLINARY PROCEDURE FOR SCHOOLS

NAME : TRADE UNION:

POST TITLE: UNION REPRESENTATIVE
NAME AND CONTACT DETAILS:

SCHOOL NAME:...

.....

DATE OF HEARING:

DECISION:

THE GROUNDS FOR MY APPEAL ARE:

.....

.....

.....

.....

.....

DISCIPLINARY PROCEDURE FOR SCHOOLS
PROCEDURE FOR AN APPEAL HEARING

1. The Management representative to present the facts of the case and may call witnesses
2. The employee or their representative to have the opportunity to question the Management representative and any witnesses about the facts provided.
3. Members of the Committee to have the opportunity to question the Management representative and any witnesses.
4. The employee or their representative to put their case and to call such witnesses as he/she wishes.
5. The Management representative to have the opportunity to ask questions of the employee or their representative and witnesses.
6. Members of the Committee to have the opportunity to ask questions of the employee or their representative, or the witnesses.
7. The Management representative to have the opportunity to sum up their case (No new evidence should be submitted at this point).
8. The employee or their representative to have the opportunity to sum up their case (No new evidence should be submitted at this point).
9. The Management representative and the employee and their representative to withdraw.
10. The members of the Appeals Committee to consider the facts presented to them.

The appeal hearing may also be adjourned at the deliberation stage, in order to allow for further investigation if the Committee feels that there are points that need clarification. An opportunity may be given to re-examine the evidence/witnesses.

DISCIPLINARY RULES AND EXAMPLES OF GROSS MISCONDUCT

Breaches of unreasonable conduct at work may take many forms and there may be other examples appropriate to the nature of a particular job which would warrant disciplinary action following a thorough examination of the circumstances involved.

This school has a number of staffing policies which set out the rules and required levels of conduct expected of all employees. The schools Code of Conduct/handbook, Safeguarding, Attendance Management Procedures, Health & Safety Policy are examples of staffing policies which set out the required standards. In the case of Teachers they are also bound by the Teachers Standards.

Whether or not any disciplinary offence amounts to gross misconduct will depend on the particular circumstances of the case including job duties and the responsibilities of the employee.

Such breaches of gross misconduct may be rare, the following are examples only and not an exhaustive list:-

- substantiated allegations in relation to child protection issues
- stealing from the school, members of staff, pupils or the public
- fighting, physical assault or threatening behaviour towards a pupil, fellow employee or member of the public
- falsification of a qualification which is a stated requirement of the employment or which results in financial gain
- theft, fraud and/or deliberate falsification of records or claims
- corrupt or improper practice for private gain
- engaging in other employment during normal working hours which are detrimental to the schools interests or which affects your ability to carry out your duties effectively
- failure to follow the School Teachers Standards
- failure to follow the schools adopted policies and procedures, for example serious breaches relating to Safeguarding, Attendance Management and Health and Safety Policies.
- Harassment in particular sexual harassment/sexual misconduct at work.