

School's Employment Manual

SCHOOL'S DISCIPLINARY POLICY

This document applies to Community and Voluntary Controlled Schools and is advisory for Foundation and Voluntary Aided Schools

June 2013



School Disciplinary Policy

Contents Table

Policy Statement	3
Introduction.....	3
The Role of the County Council	3
Objectives	4
Principles	4
Standards of Conduct	4
Managing the Process	6
Roles and Responsibilities	7
Employee Absence during the Procedure.....	9
Additional Relevant Policies	10
Appendix 1 Disciplinary Procedure	
Minor Conduct Issues – Informal Stage (Including Preliminary Investigations)	11
Major Conduct Issues – Formal Stage	12
Safeguarding Concerns	14
Investigation Procedure	14
Disciplinary Procedures and Absence	14
Employment Investigations Outcomes	14
Disciplinary Hearing Outcomes	16
Referrals to DBS and Other Organisations	18
Appeals	18
Template Letters and Forms	
Appendix 2 Letter 1 Suspension Notification	19
Appendix 3 Letter 2 Investigation Notification.....	22
Appendix 4 Letter 3 Investigatory Interview Notification.....	24
Appendix 5 Letter 4 Further Allegations Notification.....	26
Appendix 6 Letter 5 Investigation Outcome Notification.....	27
Appendix 7 Letter 6 Disciplinary Hearing Notification.....	29
Appendix 8 Letter 7 Re-Arranged Disciplinary Hearing Notification	32
Appendix 9 Strategy Meeting Checklist.....	35
Appendix 10 Letter 8 Disciplinary Hearing Outcome Notification.....	37
Appendix 11 Hearing Decision Record.....	43
Appendix 12 Investigation Written Brief.....	44
Appendix 13 Outcome of Investigation – Decision Record	45
Appendix 14 Record of Action	46
Appendix 15 Risk Assessment	47
Appendix 16 Guidance on Suspension from Work.....	48
Appendix 17 Protocol for Dealing with the Media.....	53
Appendix 18 Disciplinary Hearing Procedure and Guidance Notes	54
Appendix 19 Disciplinary Appeal Hearing Procedure	59
Appendix 20 Disciplinary Procedure – Alternative Arrangements ...	60
Appendix 21 Resignations and Referrals in Cases of Misconduct ...	61
Appendix 22 Employee Guidance to Disciplinary Investigations ...	64
Appendix 23 Guidance on the Role of Support Officer.....	67

POLICY STATEMENT

The aims of the policy are to:

- provide the school with a fair and consistent approach to dealing with misconduct issues
- help and encourage employees to achieve a high standard of conduct

INTRODUCTION

Governors of schools with delegated budgets are required to adopt policies and procedures for dealing with disciplinary issues of both teaching and support staff.

It is strongly advised that Governors adopt the policy and procedure in Appendix 1. This policy has been the subject of consultation with all recognised trade unions and if schools wish to adopt a different policy they will need to consult with trade unions themselves.

The policy seeks to ensure that the School has lawful, fair and effective arrangements in place for dealing with employee conduct and disciplinary issues. The disciplinary procedure set out at Appendix 1 provides a framework for making employees aware of unacceptable conduct and for developing ways of correcting any such issues whenever possible.

The policy and procedures give a major role to the Head Teacher and this is appropriate. However, where it is the Head Teacher's conduct that is a cause for concern, then the role assigned to the Head Teacher within the Policy and Procedure will be undertaken by the Chair of Governors. However, this is not always appropriate in all cases and in these circumstances Governors are advised to consult with their HR provider.

THE ROLE OF THE COUNTY COUNCIL

The County Council has advisory rights as regards all proceedings of a Governing Body of all Community, Voluntary Controlled, Community Special and Maintained Nursery Schools where potentially a dismissal may take place. This will normally be done through the HR Adviser as a representative of the County Council and this will include Governors appeal hearings, although in some circumstances it may be appropriate for a strategy meeting to be convened with an Assistant Director of Children Services where the conduct of a Head Teacher is in question.

This also applies to Foundation, Aided, and Foundation Special Schools where the Governing Body have afforded the County Council those rights of attendance and of giving advice.

The dismissal of an employee could be the subject of an appeal to an Employment Tribunal, which may involve costs being awarded against the School and County Council who will have been named as co-respondents. Unless the County Council has good reason, costs will not normally be met from a school's budget share. The potentially unfair or unlawful dismissal of

an employee however, may be such a reason.

OBJECTIVES

The objectives of this policy are to ensure that:

- The School meets all relevant legal requirements regarding any disciplinary decisions it takes in relation to employees.
- Employees are treated in a fair and consistent manner in relation to conduct and disciplinary issues.
- Head Teachers and Governors are supported in carrying out their responsibilities for the maintenance of high standards of conduct of all employees and that standards of conduct of individual employees are improved, wherever necessary and practicable.
- The School, its employees, children and parents are protected from the consequences of misconduct.

PRINCIPLES

At all stages in the School's Disciplinary Procedure, employees will be:

- informed of the nature of the issue(s) of concern or case against them
- given a chance to offer an explanation before any decision is taken
- given the right to be represented by a School work colleague or a recognised trade union representative or official, at any formal meeting or hearing
- given reasonable notice of any formal meeting or hearing
- notified of the outcome of any formal meeting or hearing in writing
- given a right to appeal against formal disciplinary action
- confident that the School will comply with its obligations to disabled employees under the Equality Act in terms of reasonable adjustments
- treated with dignity and respect at all times
- recognised to be in a situation of potential stress/anxiety and be treated accordingly
- confident they will not be judged "guilty" in advance of the conclusion of the process
- confident of confidentiality of communication; with access to such, by others
- confident the process will be carried out speedily and without undue delay.

STANDARDS OF CONDUCT

All School employees have a contractual responsibility to be aware of and conform to the School's values, rules, policies and procedures and to co-operate with any investigations, attend any meetings, interviews and hearings convened in accordance with this policy. School employees are expected to maintain standards of conduct both at work and outside of work.

The following examples of misconduct are intended to help employees understand the standards required by the School. Where appropriate, the School's Code of Conduct and relevant professional Codes of Conduct expand further on some of these standards. This list of examples is illustrative and not exhaustive.

- Engaging in activities or conduct that places an individual, e.g. a child, at risk, including the inappropriate disclosure of confidential information.
- Deliberate provision of false or misleading information, e.g. on application forms
- Unauthorised absence, poor timekeeping
- Failure to comply with sickness absence procedures and Absence Management Policy
- Falsification of official accounts or documents e.g. travel sheets, expense claims
- Incapacity at work, due to the effects of alcohol or non-prescribed drugs
- Physical violence, indecent behaviour, action or language that is likely to cause offence, including racial, religious or sexual abuse
- Harassment, bullying or victimisation of others, including racial, religious or sexual intimidation or prejudice of other employees or members of the public
- Disruption of others by unruly or disorderly behaviour
- Discourteous or improper treatment of others, e.g. the public, colleagues, Governors, partner organisations
- Acceptance of bribes or involvement in similar corrupt practice
- Lack of integrity that may damage public confidence in the School
- Unauthorised employment, e.g. engaging in unauthorised employment during hours when contracted to work for the School, or engaging during off-duty hours in employment considered detrimental to the interests of the School
- Engaging in activities or conduct that may adversely affect recovery from illness
- Conviction of a criminal offence inconsistent with the position the employee holds
- Use of School time/property/equipment for personal reasons without permission
- Theft of, misuse of, damage to or neglect of property or equipment
- Failure to report actual or suspected abuse of any child by another employee or any other person
- Disregard for the health and safety of others, including reckless driving or operation of vehicles, plant or equipment, and smoking in prohibited areas
- Failure to follow either operating instructions/procedures or reasonable instructions
- Failure to achieve required levels and/or quality of performance, through carelessness or lack of application (but see note below)
- Failure to wear or use appropriate equipment/attire made available or necessary for the job (including safety equipment unless exempted on the grounds of religion or belief following a risk assessment)

Note:

Dependent upon the circumstances and seriousness of a particular case the

above examples of misconduct may be regarded as gross misconduct. Except in the most exceptional circumstances, gross misconduct will result in summary dismissal, without notice.

The School accepts that before employees can be expected to reach required standards of conduct and job performance, it is essential they have been provided with appropriate training and appropriate levels of guidance and supervision. The procedures used for dealing with misconduct are different from those used when dealing with work performance and capability. In cases of work performance and capability the School's Capability Policy should be used unless the incident itself is so serious as to justify initiating disciplinary procedures.

MANAGING THE PROCESS

All staff with any supervisory responsibilities should ensure that employees understand the standards of conduct that are expected of them and need to identify as soon as possible any potential problems. Employees should also be aware of the procedures adopted by the Governing Body.

With appropriate counselling and guidance most minor conduct issues can be dealt with in an informal way with the employee supported to improve or resolve the situation as soon as it becomes apparent. All discussions should be documented as they may be referred to in future if there is a recurrence of the problem.

Trade Union Officials

Where formal disciplinary action is being considered against a trade union official (including health and safety representatives) the case will be discussed with a full-time trade union officer/official in accordance with the ACAS Code of Practice. Advice in these cases should be sought from your HR Provider.

Investigations

Where an issue cannot be resolved informally the Head Teacher should arrange to investigate the matter thoroughly. This can be done by the Head Teacher or by someone from either within or outside of the School. Advice should be sought from your HR provider.

The aim of any investigation is to establish the facts of the case and will include an interview with the individual concerned. The investigation may include talking with witnesses with written statements being made.

Financial Issues

Where the matter is of a financial nature it may be appropriate for the matter to be partly investigated by an appropriately qualified person. In such cases it may be that the Head Teacher (in consultation with the Chair of Governors) invites officers of the County Council's Audit Section to look into the matter and provide the School with a report. This will form part of the School's investigation into the issues. The report may also include wider recommendations as regards the financial management of the School.

Alleged Criminal Activity

An employment investigation may run in parallel to a police, audit and/or child protection or adult abuse investigation and should not be held up by any such investigations unless considered prejudicial to those investigations to proceed. It is not always necessary to await the outcome of any court hearing before deciding on disciplinary action.

An employee who provides information on criminal acts, breaches of legal obligations, health and safety dangers, environmental risks and related cover ups will have the right not to be dismissed or victimised for speaking out on such malpractice.

Child Protection Issues

Where an allegation against a member of staff relates to the sexual, physical or other abuse of a child the procedures within the LSCB should be followed and the matter should be discussed as soon as possible with the Local Authority designated Officer (LADO). No action should be taken until the LADO has offered advice. At this stage the employee should not be told that an investigation is under way in order to avoid the employee from discussing the issue with the child before the child has been spoken to by the appropriate officers.

It is important that hasty decisions to suspend an individual are not made before any assessment has been made as to the substance of an allegation. This can be a traumatic experience for the employee concerned and potentially could have a detrimental effect on an individual's career.

The LADO will liaise with the School to determine the necessity for a strategy meeting. If a strategy meeting is deemed necessary it will be convened with the Head Teacher of the establishment present. The planning and co-ordination of enquires will be agreed at this meeting. Where the allegations relate to a Head Teacher the Chair of Governors (and Diocesan representative when the School is a Church School) should be invited instead of the Head Teacher.

The School HR provider will check disciplinary policies with all schools prior to a LADO meeting when this involves a Church School and work with the Council's Communications and the Police to ensure that a consistent message is delivered.

ROLES AND RESPONSIBILITIES

A member of the Hearing Panel

To hear all evidence presented about the issue raised and make a decision based on the evidence available of the appropriate sanction to take. This could lead to no further action, increased support and training, management action, a disciplinary sanction or ultimately lead to the dismissal of a staff member.

A member of an Appeal Panel

If the person about whom the issue is raised is dissatisfied with the outcome

of the Hearing Panel, then they have the right to appeal within the timescales as defined within this procedure. The member of the plan will be required to review the information and decision made and determine if the decision made was correct or otherwise.

HR Provider

Your HR provider is responsible for advising and supporting Head Teachers in the application of the Policy. They will advise Head Teachers on the type of investigation to be conducted and whether the employee should remain in the workplace, be temporarily redeployed or suspended or, have a role in a disciplinary hearing.

Investigator

The investigator will be responsible for conducting a thorough investigation and ensuring that the HR provider is updated with progress on a weekly basis.

Employee Representative

During each stage of the formal procedure an employee is entitled to be accompanied by a work colleague, recognised trade union representative or recognised trade union officer.

If the employee's chosen companion is unavailable to attend the hearing at the time specified by the School, but proposes an alternative time and date, the hearing must be postponed until the later date provided that the latter is within 5 working days of the original. If this is not practical then the governors should arrange a suitable alternative. Hearings will normally be held during school closure periods.

The representative will support the person with whom the issue has been raised to put forward the case. During an investigation interview the role of the colleague is as "silent support" and they should not take part in the interview or answer on behalf of the individual. During a formal hearing the colleague will be allowed to participate as fully as possible, but has no legal right to answer questions on the employee's behalf. He or she has the right to address the hearing and will be allowed to ask questions. The colleague will also be given reasonable time to confer privately with the employee.

Trade Union Representative

Trade Union Representatives will support, advise and where necessary represent their members at all stages of an investigation. Trade union members who are the subject of an investigation can talk to a representative in full confidence and can expect that confidentiality to be maintained. Any actions that arise from such conversations (for example an enquiry of a HR Adviser or line manager) will happen by agreement. The main responsibilities of a representative during an investigation are:-

- To be a continuing point of contact for an employee, offering advice and support.
- To accompany an employee at an investigatory interview, where the

representative acts as witness rather than speaks on the employee's behalf.

- To represent an employee at a hearing, and normally to lead in presenting the employee's case.
- If appropriate, to advise and represent at an appeal or pursue other avenues such as an Employment Tribunal application.

Employees who are interviewed as part of an investigation, but are not its main subject, can be accompanied at an interview; however it is not usually practical to provide a representative in these circumstances. If employees are trade union members they can discuss any concerns with their union.

Governors

Depending upon the circumstances, Governors may or may not be involved in the decision making process as regards formal disciplinary action but will always be involved in any appeal hearing. Where it is the Head Teacher's conduct that is in question the Chair of Governors or other appropriate Governor assumes the role of the Head Teacher.

Governing Bodies need to ensure that they have a properly established Disciplinary and Appeal committee, the members of which are untainted by earlier proceedings and would not normally include staff governors.

Local Authority (LA)

The LA has advisory rights as regards all proceedings of a Governing Body of all community, voluntary controlled, community special and maintained nursery schools where potentially a dismissal may take place. This will normally be done through an HR Adviser as a representative of the Authority and will include Governors appeal hearings.

This also applies to foundation aided and foundation special schools where the Governing Body have afforded the LA those rights of attendance and giving advice.

The dismissal of an employee could be the subject of an appeal to an Employment Tribunal, which may involve costs being awarded against the school and LA who will have been named as co-respondents. Unless the LA has good reason, costs will not normally be met from a school's budget share. The potentially unfair or unlawful dismissal of an employee however, may be such a reason.

In the case of unacceptable professional conduct of a member of the teaching staff, the case will also be referred by the employer to the national College of Teaching and Leadership.

EMPLOYEE ABSENCE DURING THE PROCEDURE

Absence which is triggered by the disciplinary procedure and that the Head Teacher believes is likely to be long term should be referred immediately to

the Occupational Health Adviser for an assessment regarding the individual's fitness for work and/or fitness to undergo an investigative interview or attend a disciplinary hearing. The process will be the same as for any other medical referral.

Short absences should not delay any part of the formal stages of the procedure.

ADDITIONAL RELEVANT POLICIES

Grievance Policy

Capability policy

DBS Referral Policy

Protocol for Dealing with the Media on Employment Issues

Lincolnshire SCB Procedures (Allegations against a Professional, Professional Carer or Volunteer)

National College of Teaching and Leadership – Teacher Misconduct

Appendix 1 Disciplinary Procedure Minor Conduct Issues – Informal Stage (including Preliminary Investigations)

On becoming aware of an employee's alleged misconduct, the Head Teacher will undertake, where practicable, immediate preliminary investigations about the issues of concerns or allegations made. This will normally involve a private discussion with the employee to establish if there is an acceptable explanation for the alleged misconduct. It is not usual for employees to be accompanied at this meeting. However, they may be if both the Head Teacher and the employee consider it appropriate.

The Head Teacher should:

- Present the apparent facts of the alleged misconduct to the employee
- Give the employee a full opportunity to respond and explain any factors affecting his/her conduct (if any underlying medical issues are suggested, it may be appropriate to refer the employee to Occupational Health for advice)
- Give thorough consideration to all the employee's responses and decide what action is required. It may become apparent during the discussion that the problem is not a disciplinary matter and that other procedures, e.g. those relating to capability or reasonable adjustment, may be more appropriate.

NB: In certain cases (e.g. where current and ongoing fraud is suspected) it may be appropriate not to inform the employee at this stage in order to allow necessary observations and collection of evidence to take place. Under statutory provisions, covert surveillance may be conducted though this will require the approval of the Chair of Governors. Advice must be sought from a legal provider, HR provider and/or the Counter Fraud and Investigations Team (CFIT) of Lincolnshire County Council, before any covert surveillance takes place.

A Head Teacher will need to determine if an issue can be resolved informally. This will depend upon factors such as the seriousness of the complaint/allegation and the impact on others, e.g. children, parents, other employees and the public. The Head Teacher should consider whether informal action could quickly and easily be taken to resolve the matter and should make every effort to resolve the matter in this way, immediately, wherever possible.

NB: Any case concerning an employee's conduct in respect of a child or vulnerable adult, where the Safeguarding process is applied, and any case of fraud or theft, will be deemed a major issue and dealt with by formal investigation.

Notes will be taken of the Head Teacher's conversation with the employee and, except in the most minor cases, the outcome of the meeting, including any remedial action, will be recorded normally using the Record of Actions form (ROA) - Appendix 14.

Notes of discussions on minor conduct issues will normally include:

- A clear statement of what was discussed with regard to the employee's conduct and an explanation of why this is unsatisfactory.
- The required level of improvement discussed and (wherever practicable) agreed with the employee. These should be in measurable terms such as quantity, quality, frequency, timing, etc.
- How the Head Teacher will assist the employee (if applicable) to meet the required standards.

This record is not a formal warning, which will be made clear, and should be phrased in a constructive and helpful manner.

A copy of the ROA will be given to the employee and a copy placed on the employee's supervision file. If supervision files are not used, it will be placed in a confidential and secure location within the School. It will not be placed on the employee's personal file. Employees, who disagree with the content of the ROA, have the right to ask for their written comments to be added.

Where an employee admits to an allegation at an informal stage and the Head Teacher feels that the allegation is serious enough to warrant disciplinary consideration, the Head Teacher and employee will make and sign a written record of this. The Head Teacher will ensure the employee appreciates the implications of the admission, i.e. that the matter will be fully investigated and may be considered at a formal Disciplinary Hearing.

Major Conduct Issues – Formal Stage

If the Head Teacher determines that the matter cannot be dealt with by informal action, they will, with advice from their HR provider, determine how the investigation should progress.

The Head Teacher will need to decide whether the employee remains in the workplace (see Guidance on Suspension from Work and template letter Appendix 2 and 16) and who will undertake the investigation. A risk assessment (Appendix 15) and communication plan (see Appendix 17) should also be completed where this is considered necessary.

The Strategy Meeting will need to be held normally involving the Head Teacher and a HR provider. Dependent upon the nature of the allegation(s) there may be a need for other professionals to attend especially if there are other investigations taking place into the allegation(s). Where the allegation is against the Head Teacher, the Chair of Governors will need to attend.

Other possible attendees include:

- Local Authority Designated Officer (LADO)
- The Counter Fraud and Investigation Team of the County Council
- CfBT School Improvement Service (SIP or Principal Advisor)
- Representative from Legal Services
- Where the allegations are against the Head Teacher other attendees include: a representative of the Diocese if the allegation is against a

Head Teacher of a church school and an Assistant Director of Children's Services.

NB: The above list is not exhaustive.

In normal circumstance a Strategy Meeting will take place before any decision is made regarding the alleged concerns. However, in certain circumstances, decisions (for example regarding suspension) need to be taken quickly and the employee(s) concerned may already be suspended from work, or temporarily redeployed, before the Strategy Meeting is held. In these circumstances reference should have been made to the Guidance on Suspension from Work and template letter 1, Suspension Notification and the Strategy Meeting should be arranged at the first available opportunity; normally no later than 5 working days after the suspension or temporary redeployment.

The purpose of the Strategy Meeting is to:

- decide on who is to conduct the investigation
- clarify the allegations/objectives of the investigation and draft an Investigation Brief
- consider whether suspension or temporary redeployment are necessary (or should be continued if already suspended/temporarily redeployed)
- complete a risk assessment (see Guidance on Suspension from Work)
- agree on a communication plan
- determine any support arrangements (for the employee(s) concerned, and possibly the complainant(s) and witnesses)
- set dates for any Strategy Review Meetings or preferred update mechanism
- agree sharing of investigation interviews where multiple investigations are taking place

The Strategy Meeting Checklist can be used to assist with the above and is attached as Appendix 9.

It is the Head Teacher's responsibility to arrange for the completed documents to be sent to all attendees following the Strategy Meeting and attendees should raise any matters of accuracy as soon as possible. The Head Teacher may also finalise the Investigation Brief (Appendix 12) following the Strategy Meeting and before the investigation begins.

Where the strategy meeting relates to the conduct of the Head Teacher and has been chaired by an Assistant Director (AD) of Children's Services, the responsibility for administering the meeting falls to the AD.

The decision to suspend need not be made at this meeting. However, a deadline for making such a decision should be set and the decision communicated to attendees as soon as possible.

Safeguarding Concerns

Where the matter concerns a safeguarding issue, i.e. there is a concern regarding the conduct of an employee in respect of a child, the Head Teacher must ensure that the Local Authority Designated Officer (LADO) is aware.

In circumstances involving Child Safeguarding issues a Strategy Meeting must be arranged. It will normally be arranged and chaired by the Local Authority Designated Officer (LADO) in line with the Lincolnshire SCB Procedures.

Employment investigations need not wait until after the resolution of any safeguarding concerns, unless there are on-going police enquiries in which case the HR provider will advise when the investigation should commence.

Any proposed actions relating to the employee (i.e. suspension or temporary redeployment and notification of investigation) will be dependent upon the actions of the Safeguarding Team. Safeguarding actions must take priority until risks are satisfactorily managed.

Investigation Procedure

The purpose of the employment investigation is to determine all the relevant facts associated with the allegations and establish whether there is a case to answer. Dependent on the case, the Head Teacher will determine who will undertake the investigation. This may be decided at the Strategy Meeting or by the Head Teacher in consultation with the HR provider.

Normally within 24 hours of the Strategy Meeting (or decision to investigate) the employee concerned will be notified of the way forward (face to face meeting or letter as appropriate) and the investigation will be formally commissioned. The Head Teacher will draft a letter based on template letter Appendix 2, Investigation Notification to notify the employee of the employment investigation; unless the employee has already been notified at the time of his/her suspension from work.

Disciplinary Procedures and Absence

Employees, subject to the disciplinary procedure, who are absent due to sickness, may be referred to Occupational Health for advice on assisting their return to work and/or their participation in the investigation process. Whilst an employee may feel “stressed” and anxious under such circumstances issues will not be put on hold indefinitely awaiting an employee’s return to work.

If sickness or other absence prevents an employee attending a Disciplinary Hearing it may be postponed and re-arranged within 5 days or as soon as practicable. Employees will be advised that if they fail to attend the re-arranged hearing, then their case may be considered in their absence, based on written submissions and/or the attendance of a representative.

Employment Investigation Outcomes

The investigation report is sent to the Head Teacher. The Head Teacher may wish to discuss the contents with the investigator and/or the HR provider, to

help clarify any points of fact or evidence. It is for the Head Teacher to decide, in consultation with the HR provider, what the next steps will be.

The employee is notified, in writing, of the investigation outcome by the Head Teacher, using template letter 5 Appendix 6, Investigation Outcome Notification, for guidance. The following outcomes can result from a formal employment investigation:

1. No Further Action

If it is decided the allegations do not justify further action or there is no evidence to substantiate the allegations, the effect on the employee(s) involved, along with other factors, will nevertheless be considered. This may be particularly the case where an employee has been suspended or temporarily redeployed during the investigation. In such instances, arrangements will need to be made for the employee's return to their place of work. It may be necessary to carefully plan and manage the reintegration of the employee as they may have been away from where they normally work for some time. It may also be considered appropriate to have the employee transfer, voluntarily, to another area of the school. Any such considerations should be discussed with the employee concerned as a possibility at this time.

2. Informal Action

It may be decided the allegations warrant informal action. Examples of circumstances where informal action might be appropriate are:

- Employee is advised of the need to improve a particular skill, e.g. communication style and an action plan can be put in place to support this
- Employee's conduct needs addressing but a formal sanction is considered too severe, e.g. an issue that could be resolved through improved self-awareness.

A record of any informal management action taken will be made using the Record of Action (ROA) template and held on the employee's supervision file (or other confidential and secure place within the school if supervision files are not held), noting that this is not a disciplinary sanction.

Where it is considered that a formal Disciplinary Hearing is not necessary, the Head Teacher will provide verbal feedback to the employee concerned. In certain circumstances (for example to protect a witness) some information from the investigation may be withheld and the reason for withholding information should be explained and recorded.

3. Formal Disciplinary Hearing

Where a formal Disciplinary Hearing is considered appropriate, arrangements for the hearing will be made as soon as is reasonably possible. A Head Teacher will only hear the matter if they have not previously been involved. Otherwise, a Disciplinary Panel consisting of Governors, with no prior involvement in the case, will hear all the evidence and decide the outcome.

An HR provider may also attend, together with the Head Teacher, the

employee, his/her representative and, normally, the Investigator. Both the Head Teacher and the employee can submit documentation and call and question witnesses.

The Head Teacher will confirm the arrangements to all parties giving at least 10 working days' notice, based on template letter 6, Appendix 7, Disciplinary Hearing Notification.

Any documentation, that either the Head Teacher or the employee wishes to be considered at the hearing, must be made available to the panel and the other party, no later than 7 working days prior to the hearing to enable (where practicable) distribution of full documentation packs to all parties by 5 working days prior to the hearing. If there is a late submission of evidence it will be the Chair of the Disciplinary Panel to decide whether or not this will be accepted.

As part of the disciplinary hearing pack the employee subject to the investigation will be given a copy of the investigation report. In certain circumstances (for example to protect a witness) some information may be withheld.

Further information about a formal hearing can be found in the Guidance on Conducting a Hearing.

Disciplinary Hearing Outcomes

The School's Disciplinary Policy and Procedure allows for the following hearing outcomes:

No Further Action

Where it is considered there is no case to answer.

Informal Action

Where the alleged offence is proven but a reprimand is considered an appropriate outcome due to mitigating circumstances or the nature of the offence, e.g. a relatively minor issue.

First Written Warning

- Where the employee's conduct has fallen below acceptable standards or,
- Where the offence is sufficiently serious to justify an immediate formal sanction.

Note: The warning will be regarded as live for disciplinary purposes for between 6 to 12 months, as determined at the Disciplinary Hearing.

Final Written Warning

- Where the employee's conduct continues to be significantly below acceptable standards and previous written warning(s) have not resulted in sufficient improvement, or

- Where the offence is so serious that a final warning is appropriate as a first formal warning or
- Where dismissal would normally be appropriate but significant mitigation is accepted.

Note: The warning will be regarded as live for disciplinary purposes for between 12 to 24 months, as determined at the Disciplinary Hearing.

All warnings will be confirmed in writing and will include:

- A clear statement of the unsatisfactory conduct or behaviour
- The level of the warning
- The length of time it will remain live for disciplinary purposes
- The required level of improvement (in measurable terms)
- The consequences of no improvement in conduct or behaviour
- The right to appeal

Note: The HR provider who attended the Disciplinary Hearing will prepare, on behalf of and in the name of the Chair of the Disciplinary Panel, the written confirmation of the hearing outcome, based on template letter 8, Appendix10, Disciplinary Hearing Outcome Notification. A copy of the outcome warning letter will be placed on the employee's personal file where it will remain. However, it will not normally be regarded for disciplinary purposes beyond the live period determined at the Disciplinary Hearing.

Other Formal Action

The Disciplinary Panel may decide that the circumstances of a particular case are such that in addition to a warning, some other formal action is also appropriate, e.g. the Panel may identify a need for the employee to undertake refresher training or work under supervision for a period of time.

Withholding of incremental salary progression

For support staff only - in cases in which it is decided that a formal written warning (or dismissal with notice) is the appropriate sanction any pay increment(s) due to the employee concerned (during the live period of the warning or notice period) may be withheld. Any such increments withheld during the period of a written warning will become payable to the employee immediately following the expiry of the identified live period, subject to the improved conduct of the employee concerned but these will not be backdated.

Redeployment

In conjunction with any of the above sanctions and where it is agreed that it is not reasonable for the employee to return to their substantive post, in discussion with the employee, a move to another post, at the same grade, within the School, should be considered. The written confirmation of such action will normally be accompanied by an appropriate level of written warning, as determined at the Disciplinary Hearing.

Dismissal

Dismissal will occur where there has been gross misconduct or where the

employee has a final written warning and further misconduct or unsatisfactory conduct has taken place.

- **Dismissal with contractual notice** - Unless an employee is dismissed for gross misconduct, he/she will receive the appropriate period of notice.
- **Summary dismissal** - Actions of gross misconduct will, except in the most exceptional circumstances, justify dismissal without notice.
- **Note:** All dismissal notices will be in writing and will identify the reason(s) for the dismissal, the date on which the employment will terminate and the employee's right of appeal (template letter 8, Disciplinary Hearing Outcome Notification is available for use).

Referrals to DBS and other Organisations

The School has a legal duty to refer information to the Disclosure and Barring Service (DBS) where it has removed an individual from working or volunteering or has concerns in respect of an individual's contact with children. For further information see the School's Policy on DBS.

There may also be a need to refer the circumstances of a particular case to other professional bodies, e.g. The Teaching Agency or Health Professions Council.

Appeals

An employee has the right to appeal against any formal disciplinary action taken against him/her under this procedure. If an employee wishes to appeal they should do so in writing to the Chair of Governors who will arrange for an Appeal Committee to hear the matter. Any appeal must be lodged in writing, within 10 working days of receipt of the written notification of any sanction.

Appendix 2 - Template Letter 1
SUSPENSION NOTIFICATION

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

SUSPENSION FROM WORK

I refer to your meeting with **(INSERT NAMES/DESIGNATIONS)** held at **(INSERT VENUE)** on **(INSERT DATE)**.

As confirmed at the meeting, issues have been brought to our attention, which raise concerns as to your conduct. It is alleged that **(INSERT DETAIL OF ALLEGATION(S))**.

In view of the above concerns, the decision has been taken that it is considered appropriate you are suspended from work, with immediate effect. This letter serves to confirm that decision. As was explained to you, your suspension from work is a precautionary act, which will enable the School to further consider this matter and carry out a fair and impartial investigation. It is stressed that your suspension from work is not a form of disciplinary action against you; neither does it serve to presume guilt on your part.

An appropriate Investigator will be identified shortly and this will be confirmed in writing to you. Following on from this the Investigator will make direct contact with you regarding the investigation. In the course of the investigation you will be interviewed and will be invited to offer explanation or comment on the allegations.

You are encouraged to be accompanied at the interview by a School work colleague, recognised trade union officer or recognised trade union representative. You are advised, however, that the person who accompanies you is there to provide you with support only. He/she is not permitted to answer questions on your behalf.

Should any additional allegation(s) come to light during the course of the investigation you will be advised in writing that the further allegation(s) will also be investigated. Any information, which is gained during the investigation process, may be presented at a subsequent Disciplinary Hearing, if it is decided to proceed to a Disciplinary Hearing. You will be informed in writing of the outcome of the investigation following its conclusion.

You need to be particularly aware of how suspension from work impacts upon your pay, sickness and leave. Information on this is set out below:

Pay - During your suspension you will continue to receive contractual pay, which will be the normal remuneration applicable immediately prior to your suspension. For employees who work irregular hours, pay received during suspension will be based on the average hours worked during the 12 weeks immediately prior to suspension.

Additional allowances are not pay for the purposes of your contract of employment. However, as previously stated, suspension is not a disciplinary action and the School does not wish for employees who are suspended from work, to suffer any short term unexpected financial loss as a result. Therefore, you will continue to receive any additional allowances you normally receive. You will receive these at the average level paid during the 12 weeks preceding your suspension. You will continue to receive these for a period of 2 months following the effective date of your suspension.

For clarity, additional allowances refer to payments for shifts, sleep in arrangements etc. They do not refer to average expenses or telephone allowances. In addition, the School's wish that suspended employees do not suffer a short term unexpected financial loss does not extend to such losses as may arise from an employee not being able to work additional hours as a consequence of not being at work.

Sickness – Whilst you continue to receive contractual pay, should you fall ill during your suspension from duty, normal contractual sick pay entitlements will operate for the period of the illness. Therefore, albeit your suspension from work will continue, your pay may be affected by your sickness absence in the same way as if you were not suspended. You must comply with the sickness absence reporting procedures, in full, in the same way you would were you not suspended from work. You may also be referred to Occupational Health if this is felt appropriate.

Leave – Annual leave will continue to accrue during your suspension from work and you may request annual leave in the normal way. You are reminded that your contract of employment continues to operate and that, as explained elsewhere in this letter, you are required to make yourself available for any meetings or interviews during your normal working day. Consistent with this, you must obtain the necessary authority to take any leave during your suspension so it will be known that at such times you are not available and you have the necessary authorisation for this. To be unavailable without the appropriate authorisation may be seen as a conduct issue.

It is a term of your suspension that you are not required to attend work, which includes relief work. However, should you wish to visit your place of work during your suspension, for any reason, you should do so only by prior permission and arrangement with me. Failure to seek such prior permission may also be treated as a conduct issue.

You should remain available to the School during your normal working hours over the period of your suspension and attend meeting(s) as appropriate.

You are encouraged to be accompanied at the meetings by your recognised trade union representative, recognised trade union officer or Council work colleague.

Your suspension from work will normally be reviewed every two weeks and you will be notified, in writing, of the outcome.

The School appreciates that suspension from work can cause concern and that you may want to share your feelings and concerns with someone. Therefore, the following support arrangements are available if you wish to make use of them:

- Your Support Officer is **(INSERT NAME/DESIGNATION & CONTACT DETAILS)**. If you do not wish this person to act as your Support Officer you must contact me immediately. Unless I hear from you to the contrary it will be presumed you have no objections to this nomination and the Support Officer will be provided with your contact details.
- The Council's free and confidential Employee Support and Counselling Service, which can be accessed by telephoning (01522) 555440 or emailing emp.supportandcounselling@lincolnshire.gov.uk
- You can also make your own independent arrangements for support during the investigation by contacting your staff/union representative.

You are reminded that this matter is strictly confidential. Other than obtaining appropriate trade union and/or legal advice, you are not to discuss any aspect of this matter with anyone other than the support, which is available (as identified above) and/or with me.

The above is in accordance with the School's Disciplinary Policy and Procedure, a copy of which is enclosed. Also enclosed is a copy of the Employee Guidance on Employment Investigations. You are reminded, once again, that suspension from work is not a disciplinary sanction and does not imply any presumption of guilt on your part.

If you require any advice or clarification on the operation of the procedure please contact **(INSERT NAME & TELEPHONE NUMBER OF HR PROVIDER OR HEAD TEACHER)**, who will look to assist you.

You should note that (HR provider) and the Investigator will each be provided with a copy of this letter for their information. Your Support Officer will also be provided with a copy.

Yours sincerely

Name
Head Teacher

Appendix 3 – Template Letter 2
INVESTIGATION NOTIFICATION

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

INVESTIGATION NOTIFICATION

Further to the discussions you have had regarding the allegation(s) of misconduct against you, I am writing to confirm that an investigation into the allegation(s) will be undertaken by an Investigator. You are expected to co-operate fully and honestly with the investigation process.

(INSERT, AS APPROPRIATE, THE FOLLOWING) The Investigator is **(INSERT NAME/DESIGNATION)** OR You will be notified of who the Investigator is when one has been identified.

The specific allegation(s), which will be investigated, are as follows **(INSERT DETAIL OF ALLEGATION(S))**.

In the course of the investigation you will be interviewed and will be invited to provide explanation and comment on the allegations. You are encouraged to be accompanied at the interview by a School work colleague, recognised trade union officer or recognised trade union representative. You should note that whilst you may be accompanied, the person accompanying you is not allowed to answer questions on your behalf.

Should any additional allegation(s) come to light during the course of the investigation you will be advised in writing that the further allegation(s) will also be investigated. Any information which is gained during the investigation process may be presented at a subsequent Disciplinary Hearing, if it is decided to proceed to a Disciplinary Hearing.

It is appreciated that such investigations can cause concern and that you may want to share your feelings and concerns with someone. Therefore, the following support arrangements are available if you wish to make use of them **(Note: employees suspended from work should already have been notified of the following support arrangements)**

- Your Support Officer is **(INSERT NAME/DESIGNATION & CONTACT DETAILS)**. If you do not wish this person to act as your Support Officer you must contact me immediately. Unless I hear from you to the

contrary it will be presumed you have no objection to this nomination and the Support Officer will be provided with your contact details.

- The Council's free and confidential Employee Support and Counselling Service, which can be accessed by telephoning (01522) 555440 or emailing emp.supportandcounselling@lincolnshire.gov.uk
- You can also make with your own independent arrangements for support during the investigation by contacting your staff/union representative.

You are reminded that this matter is strictly confidential. Other than obtaining appropriate trade union and/or legal advice you are not to discuss any aspect of this matter with anyone other than the support, which is available (as identified above) and/or me.

You will be informed in writing of the outcome of the investigation following its conclusion. In the meantime you should continue to comply with the terms of your suspension as detailed in the letter of suspension you have previously received. **(only insert in cases where the employee has been suspended)**

The above is in accordance with the School's Disciplinary Policy and Procedure, a copy of which is enclosed. Also enclosed is a copy of the Employee Guidance on Employment Investigations. **(Note: employees suspended from work should already have been provided with copies of these two documents)**

If you require any advice or clarification on the operation of the procedure please contact me and I will look to assist you.

You should note that the Investigator and HR provider will be provided with a copy of this letter. Your Support Officer will also be provided with a copy.

Yours sincerely

Name
Head Teacher

Appendix 4 – Template Letter 3

INVESTIGATORY INTERVIEW NOTIFICATION

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

INVESTIGATION INTERVIEW NOTIFICATION

As you are aware from previous correspondence you have received, you are to be interviewed during the course of the current investigation into allegations against you. The purpose of the interview is for the Investigator to make enquires of you in relation to the allegations and the circumstances giving rise to them. Additionally, it provides you with the opportunity to respond to the allegations and offer explanation.

The allegations, which are the subject of the investigation, are set out below **(INSERT ALLEGATIONS DETAIL)**

I am now able to confirm the arrangements for the Investigator to conduct the interview and this is to take place on **(INSERT DATE/TIME/VENUE)**.

You are required to attend the investigatory interview. Additionally, as previously advised you are encouraged to be accompanied at the interview by a School work colleague or recognised trade union officer/representative. Should you wish to arrange to be accompanied you should do so without delay and should contact me directly should any difficulties arise in making arrangements. You are reminded that the person accompanying you will not be able to answer questions on your behalf.

You are also reminded that you are expected to co-operate fully and honestly with the investigation and that any information, which is gained during the process of the interview, will be presented at a subsequent Disciplinary Hearing in the event it is decided to proceed to a Disciplinary Hearing.

The above is in accordance with the School's Disciplinary Policy and Procedure, a copy of which you have previously been provided with.

If you require any advice or clarification on the operation of the procedure please contact me and I will look to assist you.

It will be presumed you will be attending the above interview. You are required to contact me directly and immediately should you have any difficulty with the arrangements.

You should note that the Investigator and HR provider will be provided with a copy of this letter. Your Support Officer will also be provided with a copy.

Yours sincerely

<Name>
Head Teacher

Appendix 5 – Template Letter 4

FURTHER ALLEGATIONS NOTIFICATION

PRIVATE & CONFIDENTIAL

<Addressee>

<Date>

Dear <Addressee>

FURTHER ALLEGATIONS NOTIFICATION

Further to the previous correspondence you have received, advising you of an investigation into certain allegations against you, you are advised that further allegations have come to light.

The details of the further allegations are as follows. It is alleged **(INSERT DETAIL OF FURTHER ALLEGATIONS)**. These further allegations are now formally added to those detailed in the previous correspondence you have received.

As previously advised, in the course of the investigation you will be interviewed and will be invited to offer an explanation on the allegations. If you have already been interviewed it may be that you will need to be interviewed again as a consequence of the further allegations.

As also previously advised, you are encouraged to be accompanied at any investigatory interview; either by a recognised trade union officer/representative or a School work colleague. You are reminded that the person accompanying you can not answer questions on your behalf. You are also reminded of the expectation that you will co-operate fully and honestly with the investigation and that any information, which is gained during the investigation process, may be presented at a Disciplinary Hearing, in the event it is decided to proceed to a Disciplinary Hearing.

The above is in accordance with the School's Disciplinary Policy and Procedure, a copy of which was provided to you in earlier correspondence.

If you require any advice or clarification on the operation of the procedure please contact me and I will look to assist you.

You should note that the HR provider and the Investigator will be provided with a copy of this letter. Your Support Officer will also be provided with a copy.

Yours sincerely

Name
Head Teacher

Appendix 6 – Template Letter 5

INVESTIGATION OUTCOME NOTIFICATION

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

INVESTIGATION OUTCOME NOTIFICATION

Further to the previous correspondence you have received, advising you of an investigation into certain allegations against you, I now write to advise you that the investigation is complete and to advise you of the outcome.

(INSERT, AS APPROPRIATE, ONE OF THE FOLLOWING OUTCOMES)

Outcome 1

The outcome of the investigation is that your explanation has been accepted and/or there is no evidence to support the allegations. Consequently, there will be no further action on the matter. If you have not been spoken to already about the conclusion of this matter, this will happen shortly. This will provide an opportunity to discuss any issues arising.

(WORDING TO BE USED IF EMPLOYEE IS SUSPENDED/TEMPORARILY REDEPLOYED) Your suspension from work (or temporary redeployment) is now lifted and you are able to return to your post. If you have not been contacted already regarding your return to work, contact will be made with you shortly to make the necessary arrangements. This will provide an opportunity to discuss any issues arising.

Outcome 2

The outcome of the investigation is that it is considered the allegations are supported by evidence. However, having regard to all the circumstances of this matter, it has been decided that on this occasion it will be concluded by means of appropriate **(INSERT INFORMAL ACTION OR COUNSELLING/MENTORING/DEVELOPMENT/OTHER OPTION)**

Arrangements will be made for the appropriate identified action to be taken without any unnecessary delay. If you have not been contacted already regarding the action to be taken, contact will be made with you shortly to make the necessary arrangements to meet with you and discuss the next step. This will provide an opportunity to discuss any issues arising.

You should note that a record will be made of the action taken and this will be placed on your personal file as it is considered a part of the formal disciplinary process.

Outcome 3

The outcome of the investigation is that there is considered to be a case for you to answer. Consequently, this matter will be put before a Disciplinary Panel at a Disciplinary Hearing in accordance with the School's Disciplinary Policy and Procedure. This letter serves as formal notification of this.

The specific allegations, which will be considered at the hearing, are **(INSERT DETAIL OF ALLEGATION(S))**

You have the right to be accompanied at the hearing by either a School work colleague or a recognised trade union officer/representative. If you wish to exercise this right you should inform me so the necessary arrangements can be made for the hearing.

Confirmation of the arrangements for the hearing, which will be made in consultation with your representative, will be sent to you in due course. In the meantime you are advised that the hearing may proceed in your absence should you fail to attend without advance notification and without good reason.

(INSERT IF EMPLOYEE IS SUSPENDED) You should continue to comply with the terms of your suspension as detailed in the letter of suspension you have previously received.

You are reminded that this matter remains strictly confidential. Other than obtaining appropriate trade union and/or legal advice you are not to discuss any aspect of this matter with anyone other than the identified support, which is available to you, and/or with me.

The above is in accordance with the School's Disciplinary Policy and Procedure, a copy of which was provided to you in earlier correspondence.

If you have any queries regarding this letter you should contact me and I will look to assist you.

You should note that the HR provider and the Investigator will be provided with a copy of this letter. Your Support Officer will also be provided with a copy.

Yours sincerely

Name
Head Teacher

Appendix 7 – Template Letter 6
DISCIPLINARY HEARING NOTIFICATION

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

DISCIPLINARY HEARING NOTIFICATION

Further to the previous correspondence you have received, informing you of the outcome of the recent investigation into allegations of misconduct against you, you are advised that you are required to attend a Disciplinary Hearing, as detailed below:

Date:

Time:

Venue:

You should report to reception and ask for **(INSERT NAME/DESIGNATION)**

You are reminded that the hearing may proceed in your absence should you or your representative fail to attend without advance notification to me and without good reason.

You are also advised that if you wish to attend the hearing but are unable to do so because of sickness or some other reason or your representative is unable to attend then the hearing may be postponed and if so will be rearranged within 5 days or as soon as is practicable. In this event you will be advised of the rearranged date, in writing, and advised that if you are unable to attend on the rearranged date then your case will be considered based on any written documentation you provide and/or the presentations made by your representative in your absence.

The hearing will be conducted by a Disciplinary Panel consisting of the following Governors/Head Teacher:

(INSERT NAME) (Panel Chair)

(INSERT NAMES) (Panel member)

Also in attendance will be a HR provider **(INSERT NAME)**, a (presenter of case, usually Head Teacher) to present the school's case **(INSERT NAME/DESIGNATION)** and the Investigator **(INSERT NAME)** who will present the findings from the recent investigation.

The specific allegations which will be considered at the Disciplinary Hearing

are as follows **(INSERT DETAIL OF ALLEGATION(S))**.

In view of the seriousness of these allegations the Disciplinary Panel will consider what disciplinary action to take, if any, and whether the Council can continue to have trust and confidence in your ability to carry out your job. You need to be aware that all disciplinary matters are considered serious and a range of sanctions are available including dismissal.

During the course of the hearing you will have the right to hear and question all evidence presented in respect of the allegations and to provide a statement on your own behalf.

(INSERT/DELETE) I have enclosed documents which will be presented at the hearing

OR

(INSERT/DELETE) In accordance with the School's disciplinary procedure a full documentation pack, including a copy of the evidence to be presented, has to be issued to you and your representative (where applicable) a minimum of 5 working days prior to the hearing. Therefore, any documentation you wish to present must be received by me no less than 7 working days prior to the hearing so it can be included in the documentation pack. This will ensure the documentation pack can be sent to the Disciplinary Panel members and others who will be attending, in good time and avoid unnecessary delays at the hearing.

You should note that in the event any documentation is submitted late, it will be for the Chair of the Disciplinary Panel to decide whether or not this is to be considered at the hearing.

(INSERT AS APPROPRIATE) It is not (presenter) intention to call witnesses to the hearing.

OR

It is (presenter) intention to call witnesses to the hearing, as follows: **(INSERT NAMES/TITLES)**

If you would like to call any witnesses you must inform me by means of the return of the enclosed copy of this letter. You are responsible for inviting any witnesses you wish to attend. You should note that the School's procedures do not stipulate that a School employee is obliged to attend as a witness for a fellow employee, should they not wish to do so. Therefore, in the event that you wish to call any School employees as witnesses it will be for the individuals concerned to decide whether or not they wish to attend the hearing in this capacity.

As this is a formal Disciplinary Hearing you may be accompanied by a School work colleague, recognised trade union officer or recognised trade union

representative. **(INSERT IF APPLICABLE)** A copy of this letter has been forwarded to your representative.

The above is in accordance with the School's Disciplinary Policy and Procedure, a copy of which was provided to you in earlier correspondence.

You are required to acknowledge receipt of this letter by signing the attached copy and returning it to me, by return of post. A pre-paid envelope is provided.

You should note that the HR provider, the Investigator and those attending the Disciplinary Hearing will be provided with a copy of this letter. **(INSERT IF APPLICABLE)** This includes your representative.

Yours sincerely

Name
Head Teacher

I acknowledge receipt of the letter, notifying me of the arrangements for a Disciplinary Hearing, as detailed above. I confirm my attendance.

SIGNED..... DATE.....

NAME (Print).....

I will/will not* be accompanied at the hearing. I will be accompanied by:

Name: Title:

(* delete as appropriate)

I will be forwarding my documentation for presentation at the hearing by no later than (please insert date)

I do not intend to call witnesses**

I intend to call the following witnesses**

Name: ----- Title: -----

Name: ----- Title: -----

**** delete as appropriate)**

Appendix 8 – Template Letter 7

RE-ARRANGED DISCIPLINARY HEARING NOTIFICATION

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

RE-ARRANGED DISCIPLINARY HEARING NOTIFICATION

I refer to the previous correspondence you have received, informing you of the arrangements for your Disciplinary Hearing.

As the hearing did not take place because **(INSERT REASON)** set out below are the arrangements for your re-arranged Disciplinary Hearing:

Date:

Time:

Venue:

You should report to reception and ask for **(INSERT NAME/DESIGNATION)**

As this is a re-arranged Disciplinary Hearing, you are reminded that the hearing will proceed in your absence should you not attend.

You are advised that if you choose not to attend or you are unable to attend the hearing you may wish to make arrangements for your representative to attend and/or for a written statement of case to be submitted for the Disciplinary Panel to consider in your absence. The re-arranged hearing will take place and your case will be considered based on the written documentation you have submitted and/or the presentations of your representative in your absence.

As previously advised, the hearing will be conducted by a Disciplinary Panel consisting of:

(INSERT NAME) (Panel Chair)

(INSERT NAMES) (Panel member)

Also in attendance will be a HR provider **(INSERT NAME)**, a (presenter) to present the School's case **(INSERT NAME/DESIGNATION)** and the Investigator **(INSERT NAME)** who will present the findings from the recent investigation.

The specific allegations which will be considered at the Disciplinary Hearing

are as previously notified, namely **(INSERT DETAIL OF ALLEGATION(S))**.

You are reminded that in view of the seriousness of these allegations the Disciplinary Panel will consider what disciplinary action to take, if any, and whether the School can continue to have trust and confidence in your ability to carry out your job. You need to be aware that all disciplinary matters are considered serious and a range of sanctions are available including dismissal.

During the course of the hearing you will have the right to hear and question all evidence presented in respect of the allegations and to provide a statement on your own behalf.

(INSERT/DELETE) You have previously been provided with the documents which will be presented at the hearing

OR

(INSERT/DELETE) In accordance with the School's disciplinary procedure a full documentation pack including a copy of the evidence the School will be presenting has to be issued to you and your representative (where applicable) a minimum of 5 working days prior to the hearing. Therefore, any documentation you wish to present must be received by me no less than 7 working days prior to the hearing so it can be included in the documentation pack. This will ensure the documentation pack can be sent to the Disciplinary Panel and others who will be attending in good time and avoid unnecessary delays at the hearing.

You should note that in the event any documentation is submitted late, it will be for the Chair of the Disciplinary Panel to decide whether or not this is to be considered at the hearing.

(INSERT AS APPROPRIATE) As previously notified, it is not (presenter) intention to call witnesses to the hearing **OR** As previously notified, it is (presenter) intention to call witnesses to the hearing, as follows **(INSERT NAMES/TITLES)** . You are reminded that if you would like to call any witnesses you must inform me by means of the return of the enclosed copy of this letter. You are responsible for inviting any witnesses you wish to attend. You should note that the School's procedures do not stipulate that a School employee is obliged to attend as a witness for a fellow employee, should they not wish to do so. Therefore, in the event that you wish to call any School employees as witnesses it will be for the individuals concerned to decide whether or not they wish to attend the hearing in this capacity.

You are also reminded that as this is a formal Disciplinary Hearing you may be accompanied by a School work colleague, recognised trade union officer or recognised trade union representative. A copy of this letter has therefore been forwarded to your representative **(INSERT IF APPLICABLE)**

The above is in accordance with the School's Disciplinary Policy and

Procedure, a copy of which was provided to you in earlier correspondence.

You are required to acknowledge receipt of this letter by signing the attached copy and returning it to me, by return of post. A pre-paid envelope is provided.

You should note that the HR provider, the Investigator and those attending the hearing will be provided with a copy of this letter. This includes your representative.

Yours sincerely

Name
Head Teacher

I acknowledge receipt of the letter, notifying me of the arrangements for a re-arranged Disciplinary Hearing, as detailed above. I confirm my attendance.

SIGNED..... DATE.....

NAME (Print).....

I will/will not* be accompanied at the re-arranged hearing. I will be accompanied by:

Name: Title:

(* delete as appropriate)

I will be forwarding my documentation for presentation at the re-arranged hearing by no later than (please insert date)

I do not intend to call witnesses**
I intend to call the following witnesses**

Name: ----- Title: -----

Name: ----- Title: -----

**** delete as appropriate**

Appendix 9 - Strategy Meeting Checklist

Date of Meeting:

Checklist Areas	Agreed Actions/Lead Responsibility
Preliminary enquiries or full investigation	
CFIT, management or external Investigator / team or joint approach required	
Investigation objectives – to include in Investigation Brief	
Risk Assessment	
Need to obtain documentation (personal files / supervision files / appraisal records / other potential evidence)	
Need to obtain equipment (IT, mobile phone, keys)	
IT access (email / internet / remote access)	
Suspension / Redeployment / In-situ	
Impact on Service Area – interim arrangements	
Communication Plan <ul style="list-style-type: none"> ■ Allegations – to communicate to employee ■ Communications to existing team ■ Press statement (Sensitivity) ■ Governors (Sensitivity) ■ Director / Asst Director of Children’s Services 	
Confidentiality (Control of gossip/rumour)	
Support arrangements (including employee support & counselling): <ul style="list-style-type: none"> ■ Subject ■ Complainant(s) ■ Witnesses 	
Need to inform other external Agencies and/or Children’s safeguarding teams	
Timings (notification to subject / investigation start)	
Timescales (estimated)	
Known health issues: subject / complainant(s)	
Annual leave commitments	
Key Contacts (names / location / tel. numbers / email address)	

Date of next meeting (if one agreed)	
--------------------------------------	--

Appendix 10 – Template Letter 8

DISCIPLINARY HEARING OUTCOME NOTIFICATION

1. First/Final written warning
2. Dismissal with notice
3. Dismissal without notice

**DISCIPLINARY HEARING OUTCOME
FIRST/FINAL DISCIPLINARY WARNING**

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

DISCIPLINARY HEARING – WRITTEN WARNING

I refer to the Disciplinary Hearing held on **(INSERT DATE)** at **(INSERT VENUE)**.

Present at the hearing were the following **(INSERT NAMES, DESIGNATIONS AND ROLES OF ALL THOSE PRESENT)**.

(NOTE: IF EMPLOYEE DID NOT ATTEND AND/OR ATTENDED WITHOUT REPRESENTATION THIS SHOULD BE IDENTIFIED, TOGETHER WITH THE CIRCUMSTANCES, EG THAT THE EMPLOYEE WAS HAPPY TO PROCEED WITHOUT REPRESENTATION AND/OR HAD BEEN NOTIFIED THE HEARING WOULD PROCEED IN HIS/HER ABSENCE)

The purpose of the hearing was to consider the following allegation(s) against you **(INSERT DETAIL OF THE ALLEGATION(S))**.

Having carefully considered all the evidence presented at the hearing the Disciplinary Panel found that **(INSERT DETAIL OF FINDINGS)**.

The Disciplinary Panel considers that your conduct in this matter constitutes misconduct. Consequently, the Disciplinary Panel's decision is that you be given a **(INSERT FIRST OR FINAL WRITTEN WARNING)**.

The warning you have received is effective from the date of this letter. A copy of this letter will be placed on your personal file where it will remain. However, it will be disregarded for disciplinary purposes after a period of **(INSERT IDENTIFIED PERIOD, OF UP TO 24 MONTHS, AS DETERMINED BY THE PANEL)**. This warning will be taken into account should there be any further misconduct, which occurs (or occurred) during the identified period of this

warning. The likely consequence of any further misconduct during the period of this warning will be **(INSERT, DEPENDENT UPON THE WARNING RECEIVED, EITHER FINAL WARNING OR DISMISSAL).**

(INSERT AS APPROPRIATE) The Disciplinary Panel also determined that as part of the formal disciplinary action taken against you any pay increment(s) due to be paid to you during the period of your warning will be withheld. Any such increment withheld will be paid to you upon the expiry of your warning subject to your conduct having improved to an acceptable standard. However, the payment of any withheld increment(s) will not be backdated.

(INSERT AS APPROPRIATE) The Disciplinary Panel further determined that the following action take place in respect of you **(INSERT DETAIL OF ANY ACTION DETERMINED BY THE PANEL, EG THAT THE EMPLOYEE UNDERTAKES REFRESHER TRAINING OR IS TO WORK UNDER SUPERVISION FOR A TIME)**

You have the right to appeal against the Disciplinary Panel's decision. If you wish to exercise your right to appeal you must do so by writing to **(INSERT NAME/ADDRESS OF THE CHAIR OF GOVERNORS)** within 10 working days of receipt of this letter. In lodging your appeal you are required to clearly identify your grounds for appeal. To illustrate the clarity and detail required it is insufficient to simply identify that you felt not all the evidence was considered. You will need to identify the evidence, which you believe was not considered. In submitting your appeal you will also need to identify who, if anyone, will be representing you at your appeal and provide their contact details.

(INSERT AS APPROPRIATE) As a consequence of this disciplinary action you are further advised that the School will be notifying relevant bodies of the Disciplinary Panel's decision, namely **(INSERT AS APPROPRIATE – EXAMPLES INCLUDE THE TEACHING AGENCY, HEALTH PROFESSIONS COUNCIL AND/OR THE INDEPENDENT SAFEGUARDING AUTHORITY (ISA)).**

You should note that I have provided the Human Resources provider and the Investigator **(and trade union representative where appropriate)** with a copy of this letter for information purposes.

If you have any queries about this letter you should contact the Head Teacher in the first instance.

Yours sincerely

Name
(Chair of the Disciplinary Panel)

DISCIPLINARY HEARING OUTCOME (WHERE WARNING ALREADY EXISTS)

DISMISSAL WITH NOTICE

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

DISCIPLINARY HEARING – DISMISSAL

I refer to the Disciplinary Hearing held on **(INSERT DATE)** at **(INSERT VENUE)**.

Present at the hearing were the following **(INSERT NAMES, DESIGNATIONS AND ROLES OF ALL THOSE PRESENT)**.

(NOTE: IF THE EMPLOYEE DID NOT ATTEND AND/OR ATTENDED WITHOUT REPRESENTATION THIS SHOULD BE IDENTIFIED, TOGETHER WITH THE CIRCUMSTANCES, EG THAT THE EMPLOYEE WAS HAPPY TO PROCEED WITHOUT REPRESENTATION AND/OR HAD BEEN NOTIFIED THE HEARING WOULD PROCEED IN HIS/HER ABSENCE)

The purpose of the hearing was to consider **(INSERT DETAIL OF ALLEGATION(S))**.

Having carefully considered all the evidence presented at the hearing the Disciplinary Panel found that **(INSERT DETAIL OF FINDINGS)**.

The Disciplinary Panel considers that your conduct in this matter constitutes misconduct.

In reaching its decision in respect of an appropriate disciplinary sanction, the Disciplinary Panel had regard to the fact that you have previously received a disciplinary warning, which was live for disciplinary purposes at the time of your further misconduct. The previous warning was a final warning. The Panel noted that at the time you received your final warning you were advised that any further misconduct was likely to result in your dismissal.

Having regard to the above and the Disciplinary Panel's finding of misconduct, the decision of the Disciplinary Panel is that in view of your further misconduct you are to be dismissed. As this is not a summary dismissal, this letter serves to issue you with your due notice of **(INSERT NUMBER OF WEEKS)** weeks. This is paid notice and the notice period is effective from the date you receive

this letter. Therefore, your employment with the School will terminate on **(INSERT DATE)**. You **(INSERT WILL OR WILL NOT)** be required to work your notice.

(INSERT AS APPROPRIATE) The Disciplinary Panel also determined that as part of the formal disciplinary action taken against you any pay increment(s) due to be paid to you during the period of your notice will be withheld.

You have the right to appeal against the Disciplinary Panel's decision. If you wish to exercise your right to appeal you must do so by writing to the Chair of the Governing Body within 10 working days of receipt of this letter. In lodging your appeal you are required to clearly identify your grounds for appeal. To illustrate the clarity and detail required it is insufficient to simply identify that you felt not all the evidence was considered. You will need to identify the evidence, which you believe was not considered. In submitting your appeal you will also need to identify who, if anyone, will be representing you at your appeal and provide their contact details.

(INSERT AS APPROPRIATE) As a consequence of this disciplinary action you are further advised that the School will be notifying relevant bodies of the Disciplinary Panel's decision, namely **(INSERT AS APPROPRIATE – EXAMPLES INCLUDE THE TEACHING AGENCY, HEALTH PROFESSIONS COUNCIL AND/OR THE INDEPENDENT SAFEGUARDING AUTHORITY (ISA))**.

You should note that I have provided the HR provider and the Investigator **(and trade union representative where appropriate)** with a copy of this letter for information purposes.

If you have any queries about this letter you should contact the Head Teacher in the first instance.

Yours sincerely

Name
(Chair of the Disciplinary Panel)

DISCIPLINARY HEARING OUTCOME
DISMISSAL WITHOUT NOTICE

PRIVATE & CONFIDENTIAL

<Addressee>
<Address>

<Date>

Dear <Addressee>

DISCIPLINARY HEARING - DISMISSAL

I refer to the Disciplinary Hearing held on **(INSERT DATE)** at **(INSERT VENUE)**.

Present at the hearing were the following **(INSERT NAMES, DESIGNATIONS AND ROLES OF ALL THOSE PRESENT)**.

The purpose of the hearing was to consider the following allegation(s) against you **(INSERT DETAIL OF ALLEGATION(S))**

(NOTE: IF THE EMPLOYEE DID NOT ATTEND AND/OR ATTENDED WITHOUT REPRESENTATION, THIS SHOULD BE IDENTIFIED TOGETHER WITH THE CIRCUMSTANCES, EG THAT THE EMPLOYEE WAS HAPPY TO PROCEED WITHOUT REPRESENTATION AND/OR HAD BEEN NOTIFIED THE HEARING WOULD PROCEED IN HIS/HER ABSENCE)

Having carefully considered all the evidence presented at the hearing the Disciplinary Panel found that **(INSERT DETAIL OF FINDINGS)**.

The Disciplinary Panel considers that your conduct in this matter constitutes gross misconduct. Consequently, the Disciplinary Panel's decision is that you be summarily dismissed, without notice. Consistent with this decision I write to confirm that your last day of employment with the School is **(INSERT DATE OF HEARING IF THE EMPLOYEE ATTENDED THE HEARING OR DATE ON WHICH THIS LETTER IS RECEIVED IF THE EMPLOYEE DID NOT ATTEND THE HEARING AND WAS DISMISSED IN HIS/HER ABSENCE)**

You have the right to appeal against the Disciplinary Panel's decision. If you wish to exercise your right to appeal you must do so by writing to the Chair of Governors within 10 working days of receipt of this letter. In lodging your appeal you are required to clearly identify your grounds for appeal. To illustrate the clarity and detail required it is insufficient to simply identify that you felt not all the evidence was considered. You will need to identify the evidence, which you believe was not considered. In submitting your appeal

you will also need to identify who, if anyone, will be representing you at your appeal and provide their contact details.

(INSERT AS APPROPRIATE) As a consequence of this disciplinary action you are further advised that the School will be notifying relevant bodies of the Disciplinary Panel's decision, namely **(INSERT AS APPROPRIATE - EXAMPLES INCLUDE THE TEACHING AGENCY, HEALTH PROFESSIONS COUNCIL AND/OR THE INDEPENDENT SAFEGUARDING AUTHORITY (ISA))**

You should note that I have provided the HR provider and the Investigator **(and trade union representative where appropriate)** with a copy of this letter for information purposes.

If you have any queries about this letter you should contact the Head Teacher in the first instance.

Yours sincerely

Name
(Chair of the Disciplinary Panel)

Appendix 11 – Hearing Decision Record

STRICTLY CONFIDENTIAL
Hearing Decision Record

Name of Employee:

Date of Hearing:

Name of Union Rep:

Names of Panel Members:

DECISION OF THE PANEL

The purpose of the hearing was to consider and seek your explanation in respect of the following Allegation(s) Matter(s) (delete as appropriate)

Having taken into account all of the evidence presented at the hearing, the panels findings in relation to this/these Allegation(s) Matter(s) (delete as appropriate) are:

The decision of the panel therefore is that:

You have the right to appeal against this decision. Both you and your representative will receive written confirmation of the outcome of this hearing.

In order to assist you with significant and sustained improvement in these areas the following action points are to be implemented:

Signed: _____ Chair of Panel

Appendix 12 – Investigation Brief

STRICTLY CONFIDENTIAL INVESTIGATION WRITTEN BRIEF

Type of investigation	DISCIPLINARY
Employee's name:	

1. BACKGROUND:

Is the employee suspended? Yes/No

Has letter of suspension been issued? Yes/No
(please attach a copy)

Employee's Support Officer details:

2. LIST OF ALLEGATIONS:

3. OBJECTIVES OF THE INVESTIGATION:

4. RELEVANT ADDRESSES AND CONTACT NUMBERS:

Name	Position	Address and contact details

5. ADDITIONAL INFORMATION:

Signed:		Date:		Head Teacher
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Notes:

- i) The investigation should normally commence within 1 week of the Investigator receiving this brief.
- ii) Investigator to inform the Head Teacher of progress on a fortnightly basis
- iii) Investigations should, wherever practicable, be completed within 4 weeks. However, in some cases this is subject to review.

Appendix 13 – Outcome of Investigation – Decision Record

Name of Employee:

Details of Allegation:

Recommended Next Steps

Reason for Decision

No Further Action

Counselling &
Management Action

Formal Hearing

Agreed By

Head Teacher Signed: ----- **Date** -----

Appendix 14 – Record of Action

To be completed by the Head Teacher to record any remedial action taken

Name of employee

Job Title

Date Issue

Details of actions taken in response to issue :-

Date	Action Taken
-------------	---------------------

Appendix 15 – Risk Assessment

Risk	Who is at Risk	Severity High Medium Low	Control Action/ Comments	Action By	When	Current Status
1						
2						
3						
4						
5						

Appendix 16 – Guidance on Suspension from Work

In certain circumstances it may be considered appropriate to suspend an employee from work. It is important to note that suspension does not constitute disciplinary action and does not itself imply any presumption of guilt on the part of the employee. The employee should be advised of this.

Grounds for Suspension

Where alleged misconduct is sufficiently serious to be considered potential gross misconduct (or other very serious situations) the employee may be suspended from work. Examples of this include:

- Alleged gross misconduct such as:
 - Abuse or harassment of a vulnerable child
 - Fighting or serious physical violence at work
 - Fraud or theft
 - Malicious damage to the property of colleagues, children, the School or public
 - Serious personal harassment or bullying (see Notes below)
 - Corrupt practice
- Where the employee is being charged with a serious criminal offence.
- Where there is a clear concern that the employee or others may be placed at risk by the employee remaining in the work place.
- Where it is considered possible that the employee may influence witnesses or interfere with relevant evidence.

Alternatives to suspension from work, such as temporary redeployment to another area of the School or work base or working from home, should be carefully considered before initiating suspension. It is advisable to record why any such alternatives to suspension are not considered appropriate.

Notes:

- i) In cases of personal harassment or bullying, it will be the alleged harasser who is suspended or temporarily redeployed to a different work location or asked to work from home; where such actions are considered necessary.
- ii) If it is considered necessary for the harassee to take time away from work (e.g. to recover from the stress of the alleged incident) consideration should be given to granting authorised absence. This will not be classed as suspension.

The Suspension Process

Stage 1 – The decision to suspend

In respect of any alleged misconduct, the Head Teacher will, where practicable, undertake immediate preliminary investigations. Preliminary investigations will normally involve a private discussion with the employee concerned to establish if there is an acceptable explanation for the alleged misconduct. Dependent upon the nature and seriousness of the allegations there may be a need to consider the immediate suspension of the employee

concerned. In such circumstances the Head Teacher may wish to consider the matter with the appropriate HR provider.

Following this, a Strategy Meeting should be called as soon as possible. Consideration will be given at the Strategy Meeting as to whether there are sufficient grounds to suspend. If a Strategy Meeting is not possible within a reasonable timescales the Head Teacher may wish to seek advice from their HR provider on whether suspension is appropriate. If it is considered that there are sufficient grounds to suspend, then the Head Teacher should do so after discussion with the Chair of Governors.

Where a Head Teacher is not available, it may be necessary for a manager at the School to require the employee to leave the place of work for the remainder of the period of duty on authorised absence. Confirmation that suspension is necessary will be approved by the Head Teacher as soon as possible.

Stage 2 - Practical arrangements

Where it has been agreed to proceed with suspension and following a preliminary investigation, the Head Teacher may wish to discuss with the HR Provider the practical arrangements on how to implement the suspension to include:

- Locating suitable office space to ensure the suspension meeting takes place in private
- Safeguarding of relevant documents, records and other items of School property
- Handing over keys and other equipment, eg a work mobile or IT equipment and where these could potentially be used inappropriately, ID and access cards
- Accompanying the employee back to the workplace to collect personal belongings if required or arranging for these to be delivered to/collected by the employee
- Limiting or removing access to IT systems
- Guidance about contact with other employees whilst suspended, e.g. it may be necessary in some circumstances for a suspended employee to be prohibited from contact with particular named employees.
- Escorting the employee off the premises
- How the employee's absence from work will be communicated to internal and external colleagues and customers

Access to IT systems and networks

When a decision to suspend has been taken the Head Teacher should also consider the implications of maintaining the individual's access to their e-mail account and any IT systems and networks.

A letter confirming the suspension will need to be prepared in advance of the suspension meeting and signed by a Head Teacher. (see letter Appendix 13 Suspension Notification). This includes:

- A statement confirming that suspension is not a disciplinary action
- The reason for suspension
- The length of the suspension and arrangements for review
- Actions that will be taken during the suspension
- Impact on pay, leave and sickness
- Contacts within the School and fellow employees during suspension
- Support mechanisms available

Stage 3 – Advising the employee of suspension

When the above arrangements are in place, the Head Teacher should convene a suspension meeting. The meeting should take place as soon as possible after the alleged misconduct.

The employee has a right of representation at the suspension meeting. However, the unavailability of a representative must not delay convening the meeting or the suspension itself.

Under normal circumstances, the Head Teacher should ask the employee to attend a suspension meeting, giving a brief outline of the reasons for the meeting; advising the employee that they have the right to have a School work colleague or recognised trade union officer/representative present.

Stage 4 - The Suspension Meeting

Those present in the suspension meeting would normally be:

- Head Teacher
- HR provider, if required
- The employee being suspended
- A School work colleague of the employee or recognised trade union officer/representative

The Head Teacher will explain the reasons for the suspension; reminding the employee that suspension is not a disciplinary action and does not itself imply any presumption of guilt on the part of the employee. The employee should also be advised that suspension is on contractual pay and that notes of the meeting will be made.

Where the meeting takes place without an employee representative present, the Head Teacher should inform the employee why the suspension is proceeding without such representation and note these reasons for the record.

Where the employee decides not to have a School work colleague or recognised trade union officer/representative present at the suspension meeting, this will also be noted by the Head Teacher for the record.

The Head Teacher should also inform the employee what will be communicated to internal and external colleagues and the School as a whole to explain their absence from work, and how the School will respond to any enquiries from the media about the employee's absence from work.

During the suspension meeting, the Head Teacher should allow the employee the opportunity to comment on the alleged misconduct and the decision to suspend. Any comments made by the employee will be noted for the record.

At the conclusion of the suspension meeting, the Head Teacher must give the employee the pre-prepared letter of notification and associated documents, including a copy of the School's Disciplinary Policy and Procedure document. If it is decided not to proceed with the suspension, eg as an alternative it is decided to temporarily redeploy the employee to another work area or have him/her work from home, then the pre-prepared documentation will be destroyed and a revised letter, confirming the action taken, prepared and issued.

If the employee being suspended is a member of a recognised trade union, a copy of the suspension letter will be forwarded to the employee's trade union representative unless the employee requests otherwise.

Head Teachers need to be sensitive to reactions from the employee including shock, stress or distress and may need to consider offering the employee support either to their home or a place of safety.

Suspension Reviews

The Head Teacher should review the suspension (or temporary redeployment) every 2 weeks whilst the investigation is carried out and will keep a written record of each review. The Head Teacher will ensure the Chair of Governors is kept up to date. The review should address whether the conditions for suspension (or temporary redeployment) continue to be met, giving due consideration to the suspension (or temporary redeployment) being lifted and the employee being allowed to return to work in their substantive post, or, possibly after full discussion and agreement with the employee, in a different area or capacity.

The Head Teacher is responsible for keeping the employee informed of each review and its outcome. Suspension records will form part of the paperwork to be presented at a Disciplinary Hearing if one is arranged.

Support during Suspension

Throughout all stages of the suspension process the employee will be given as much information as possible about the allegations or issues of concern, subject only to protecting the interests of any other party.

The Head Teacher should ensure that a Support Officer is identified and that this person maintains regular contact with the employee. The suspended employee will be asked to confirm the acceptability of the identified person as a Support Officer.

The Head Teacher will also make the employee aware of the availability of the Employee Support and Counselling Service, where the School purchases this service.

Although suspension from work should not lead to social isolation it may be necessary in some circumstances for a suspended employee to be prohibited from contact with particular named employees. This should be made clear to the suspended employee.

The School will ensure that all employment matters relating to an individual employee remain confidential. Should there be a press enquiry or other request for a statement regarding the position of any employee, the Head Teacher should inform the individual employee of this enquiry immediately.

Appendix 17 – Protocol for Dealing with the Media on Employment Issues

Where there has been a media/press enquiry or other request for a statement regarding the position of any employee, the School should inform the employee of the enquiry immediately. It is the responsibility of the Head Teacher to let the member of staff know about the enquiry.

In these circumstances, the member of staff should also be informed, prior to its release, that the following statement will be issued.

“We are unable to comment on any matters that relate to individual members of staff”

The Head Teacher should normally be named as making the statement.

There are normally follow up questions from the media once the statement is issued.

Normally the same short statement should continue to be used.

Advice should be sought from your HR provider in these circumstances.

Appendix 18 – Disciplinary Hearing Procedure and Guidance Note

1. Chair of the Panel arranges for the parties to enter together and to take designated seats.
2. Chairman conducts introductions, explains the protocol for the hearing and responds to any initial procedural questions.

NB If the employee is unaccompanied, the Chairman checks that he/she is happy to proceed without representation and makes a note to that effect.

3. When directed by the Chairman:
4. The Investigating Officer presents the investigation report, including all relevant documentation
5. Employee/representative puts questions to the Investigating Officer.
6. Panel members/HR Adviser puts questions to the Investigating Officer
7. Investigating Officer withdraws after his/her questions have been completed (unless the Investigating Officer is also the management representative)
8. The Management representative presents the management position in relation to the employee's alleged offences, including all relevant documentation
9. Employee/representative puts questions to the management representative.
10. Panel members/HR Adviser puts questions to the management representative if they wish
11. Management representative questions any witnesses called to appear by management
12. Employee/representative questions the management witnesses
13. Panel members/HR Adviser question the management witnesses if they wish
14. Each management witness withdraws after his/her questioning has been completed
15. Employee/representative presents the employee's responses/case
16. Management representative puts questions to the employee/representative

17. Panel members/HR Adviser put questions to the employee/representative if they wish
18. Employee/representative questions any witnesses called to appear by the employee/representative
19. Management representative questions the employee witnesses
20. Panel members/HR Adviser questions the employee witnesses if they wish
21. Each employee witness withdraws after his/her questioning has been completed
22. Management representative summarises the School's management position
23. Employee/representative summarises the employee's position
24. All parties withdraw

The Decision

All three panel members discuss the employee's conduct, all related evidence and any relevant policies, procedures and practices.

The panel make the final decision on the outcome. The HR provider acts in an advisory capacity only.

Before making the final decision the panel should ask themselves:

1. Has there been as much investigation as is reasonable in the circumstances?
2. Have the requirements of the disciplinary procedures been properly complied with up to this point?
3. Has sufficient regard been paid to any explanation put forward by or on behalf of the employee?
4. Is there a genuine belief that the employee has committed the misconduct alleged?
5. Are there reasonable grounds on which to sustain that belief on the balance of probabilities (i.e. is it more likely than less that the employee did what is alleged)?
6. Is the misconduct sufficiently serious to justify the disciplinary action being contemplated?
7. Has regard been given to any mitigating circumstances put forward by or on behalf of the employee?
8. Is the decision within the band of reasonable responses of a reasonable employer in the circumstances?
9. If dismissal is the only option, have alternative sanctions been considered and recorded, e.g. redeployment?

The effect of answering yes to questions 1 to 5 is to reach the finding that the allegations have been found. Questions 6 to 9 help to determine whether the proposed outcome is reasonable.

Note – if the panel wishes to put further questions to either party, both parties will be recalled even if the question is to be directed at one party only. At no time should the panel be alone with either the employee/representative, or with the management representative.

Chairman makes a written summary of the decision and related action plans using the Hearing Decision Record form at Appendix 11.

All parties are recalled. The Chairman reads out the panel's decision and any related performance improvement plans and/or action plans. This is confirmed in writing to the employee.

The Chairman brings the hearing to a prompt close, without further discussion or debate.

Possible Outcomes

The School's Disciplinary Policy and Procedure allows for the following hearing outcomes:

No Further Action

Where it is considered there is no case to answer.

Informal Action

Where the alleged offence is proven but a reprimand is considered an appropriate outcome due to mitigating circumstances or the nature of the offence, eg a relatively minor issue.

First Written Warning

- Where the employee's conduct has fallen below acceptable standards or,
- Where the offence is sufficiently serious to justify an immediate formal sanction.

Note: The warning will be regarded as live for disciplinary purposes for between 6 to 12 months, as determined at the Disciplinary Hearing.

Final Written Warning

- Where the employee's conduct continues to be significantly below acceptable standards and previous written warning(s) have not resulted in sufficient improvement, or
- Where the offence is so serious that a final warning is appropriate as a first formal warning or
- Where dismissal would normally be appropriate but significant mitigation is accepted.

Note: The warning will be regarded as live for disciplinary purposes for between 12 to 24 months, as determined at the Disciplinary Hearing.

All warnings will be confirmed in writing and will include:

- A clear statement of the unsatisfactory conduct or behaviour
- The level of the warning
- The length of time it will remain live for disciplinary purposes
- The required level of improvement (in measurable terms)
- The consequences of no improvement in conduct or behaviour
- The right to appeal

Note: The HR provider who attended the Disciplinary Hearing will prepare, on behalf of and in the name of the Chair of the Disciplinary Panel, the written confirmation of the hearing outcome, based on template letter 8 Disciplinary Hearing Outcome Notification. A copy of the outcome warning letter will be placed on the employee's personal file where it will remain. However, it will not normally be regarded for disciplinary purposes beyond the live period determined at the Disciplinary Hearing.

Other Formal Action

The Disciplinary Panel may decide that the circumstances of a particular case are such that in addition to a warning, some other formal action is also appropriate, e.g. the Panel may identify a need for the employee to undertake refresher training or work under supervision for a period of time.

Withholding of incremental salary progression

For support staff only - in cases in which it is decided that a formal written warning (or dismissal with notice) is the appropriate sanction any pay increment(s) due to the employee concerned (during the live period of the warning or notice period) may be withheld. Any such increments withheld during the period of a written warning will become payable to the employee immediately following the expiry of the identified live period, subject to the improved conduct of the employee concerned but these will not be backdated.

Redeployment

In conjunction with any of the above sanctions and where it is agreed that it is not reasonable for the employee to return to their substantive post, in discussion with the employee, a move to another post, at the same grade, within the School, should be considered. The written confirmation of such action will normally be accompanied by an appropriate level of written warning, as determined at the Disciplinary Hearing.

Dismissal

Dismissal will occur where there has been gross misconduct or where the employee has a final written warning and further misconduct or unsatisfactory conduct has taken place.

- **Dismissal with contractual notice** - Unless an employee is dismissed for gross misconduct, he/she will receive the appropriate period of notice.

- **Summary dismissal** - Actions of gross misconduct will, except in the most exceptional circumstances, justify dismissal without notice.
- **Note:** All dismissal notices will be in writing and will identify the reason(s) for the dismissal, the date on which the employment will terminate and the employee's right of appeal (template letter 8, Disciplinary Hearing Outcome Notification is available for use).

Appendix 19 – Disciplinary Appeal Hearing Procedure

Management representative, employee or representative enter together

The Chairman describes the procedure. Any procedural questions are resolved at this point

The appellant and/or representative present case based on the grounds specified when submitting the appeal. The appellant can refer to documentation and call witnesses

The management representative may ask questions of the appellant and/or representative and any witnesses

Members of the Committee and the HR provider may ask questions of the appellant and/or representative and any witnesses

The management representative responds to appellant's presentation and may call any witnesses in connection with the grounds for appeal

The appellant and/or representative may ask questions of the management representative and any witnesses

Members of the Committee and HR provider may ask questions the management representative and any witnesses

The appellant and/or representative summarises and concludes

The management representative summarises and concludes

The management representative, appellant and representative withdraw whilst the Committee advised by the HR provider consider the appeal

All parties return and the decision is announced.

Appendix 20 – Disciplinary Procedure – Alternative Arrangements

The Head Teacher will normally be expected to lead in determining staff dismissals including those where the reason is conduct.

The disciplinary procedure therefore delegates this responsibility to the Head Teacher although in certain circumstances in accordance with the provisions of the Education Act 2003, the governing body should apply alternative arrangements if the process reaches the potential dismissal stage.

These arrangements may include decisions being taken by an individual governor or a group of governors, with or without the Head Teacher. Regardless of the approach adopted the Head Teacher has the right to attend to offer advice.

The circumstances are as follows:

- A Head Teacher who is unwilling to perform these functions and whose previous history of service at the school did not include any such responsibilities.
- A Head Teacher subject to suspension, disciplinary procedures (including capability), or disciplinary action.
- Where the local authority has made representations to the Chair of the Governing Body on grounds of serious concerns about the performance of the Head Teacher.
- Where the Head Teacher has failed to abide by financial limits agreed by the governing body for any school purpose.
- Where the governing body of a faith school has agreed staffing policies, which provide for governor involvement in the interests of preserving the school's religious character.

Where any of the above circumstances apply, schools are strongly advised to consult with their HR provider or Children's Services

Appendix 21 – Resignations and Referrals in Cases of Misconduct

Under the Education (prohibition from Teaching or Working with Children) Regulations 2003, where an employer had ceased to use a person due to resignation or dismissal relating to the person's misconduct or unsuitability to work with children, the employer was required to refer the person to the Secretary of State (through the DCSF). From January 2009, the Independent Safeguarding Authority has assumed responsibility from the Secretary of State for barring decisions. This responsibility now sits with the Disclosure and Barring Service (DBS) following the introduction of the Freedom Act 2010. In addition the Education Act 2011 gives responsibility to the Secretary of State to regulate teachers' conduct and to hold a list of teachers who have been prohibited from teaching. Regulations (The Teachers' Disciplinary (England) Regulations 2012) provide information about how specific and detailed arrangements should operate.

Since 1st April 2012, the arrangements for the regulation of teachers' professional conduct has moved to the National College for Teaching & Leadership. The primary purpose is to consider the imposition of a prohibition order on a teacher following a finding of "unacceptable professional conduct", conduct that may bring the profession into disrepute "or a conviction, at anytime, of a relevant criminal offence".

In order to comply with these regulations it is necessary to ensure that Disciplinary procedures are being applied to ensure that procedures are seen through to a clear outcome in respect of the individual's continued employment.

The fact that the person tenders his or her resignation. or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to co-operate with the process. Wherever possible, the person should be given a full opportunity to answer the allegation and make their representations. All processes should be carried out even if the person does not co-operate. This includes; recording of the allegation, giving the person opportunity to answer the allegation and reaching and recording a judgement about whether it can be regarded as substantiated on the basis of all information available. It may be difficult to reach a conclusion where an individual does not co-operate, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

"Compromise agreements" by which a person agrees to resign, the school agrees not to pursue disciplinary action and both parties agree a form of words to be used in any future reference, will not prevent a through police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to DBS where circumstances require that. Lincolnshire County Council will not agree a Compromise Agreement relating to Child

Protection cases in any circumstances.

Disciplinary Issues

If an employee submits their resignation during a disciplinary process, the governors may accept that resignation. However, it is strongly advised that the disciplinary process continues to a hearing where the panel considers whether dismissal or a lesser warning would be the appropriate outcome. The individual will be invited to attend the hearing to make a written submission but cannot be compelled to do so. The hearing will follow procedure in the school's disciplinary policy.

The disciplinary panel will record the outcome of the hearing and on the basis of this outcome the Authority will make a referral to the DBS for any cases relating to Child Protection and the National College for Teachers and Leadership for other misconduct cases. Misconduct referrals should be made promptly within one month of the termination of employment and be accompanied by supporting information.

Where a termination decision cannot be made due to a resignation and lack of evidence, the school will decide, taking appropriate advice, whether a referral is appropriate. When a referral is made the individual will be informed in writing and will be requested not to apply for work within Lincolnshire County Council maintained school or childcare setting until a response has been received.

For information and queries on the Disclosure and Baring Service see the DBS policy.

For Teacher conduct cases, there is a form to complete and return to:

National College for Teaching & Leadership
Teacher Regulation Division,
Teaching Agency,
53-55 Butts Road,
Earlsdon Park,
Coventry
CV1 3BH

When making a referral to the National College an employer will need to include the following information:

- Details of all relevant conduct by the teacher
- All relevant evidence regarding such conduct, and
- All relevant evidence submitted by the teacher.

Examples of the specific types of information that may be relevant are:

- Letter or notice terminating a teacher's employment
- Statement of reasons for dismissal
- Employer's records relating to the dismissal or any contemplated dismissal, including relating to the teacher's conduct up to that point

such as notes and minutes of meetings, interview notes and evidence supplied to or obtained by the employer.

- Employer's letters, warnings or notices issued to the teacher, and the teacher's replies or representations relating to it
- Any other statements, representations and evidence submitted by the teacher to the employer
- Letter of resignation

Appendix 22 – Employee Guidance to Employment Investigations

What is the purpose of the investigation?

To determine the facts associated with the allegations. There are different possible outcomes from an investigation, namely that no further action is necessary, that the issues can be dealt with informally as management action, e.g. retraining, or that the issues are considered serious enough to warrant disciplinary consideration, in which case a formal Disciplinary Hearing will be convened.

Who will undertake the investigation?

In most cases employment investigations will be undertaken by a nominated manager who has received training in conducting investigations. The manager concerned will have had no prior involvement in the matter and will undertake an impartial and objective investigation.

Particular investigations, e.g. into alleged theft or fraud, may be undertaken by an investigator from the Council's Counter Fraud and Investigation Team (CFIT).

Exceptionally, it may be felt appropriate for an external investigator to undertake an investigation.

Dependant upon the nature and seriousness of the alleged misconduct, there may be other, separate investigations undertaken at the same time as the employment investigation, e.g. allegations concerning an employee's conduct in respect of a child may be the subject of a Safeguarding investigation. There may also be Police investigations.

What is expected of me?

School employees are expected to co-operate fully, openly and honestly with employment investigations, whether as the subject of the investigation or as a witness. They are required to attend any meetings, interviews and hearings. To not co-operate or provide false or misleading information may be considered misconduct.

Employees are also expected to observe strict confidentiality in respect of their involvement and not to openly discuss the investigation other than to obtain appropriate support, e.g. legal or trade union advice and guidance.

Who may be interviewed as part of the investigation?

Normally employees under investigation and complainants will be interviewed. Additionally, individuals identified as witnesses, may be interviewed as part of the investigation process. Witnesses are expected to make themselves available for interview, to co-operate fully with the investigator and provide all the facts they are aware of, together with any supporting evidence. Witnesses may also be called (by either management or the employee under investigation) to attend any subsequent Disciplinary Hearing and will be expected to attend to provide evidence.

The employee under investigation will be provided with the opportunity to identify any potential witnesses in support of their explanations and the investigator will consider the need to interview these. Investigators will not normally interview individuals for the purpose of a character reference, unless there is good reason to do so.

What if I am unable to attend an investigatory interview?

The investigator will contact you to arrange with you your interview. Therefore, there should normally be no reason for non-attendance. However, employees unable to attend investigatory interviews due to sickness or some other reason (or their representative is unable to attend) may have the interview postponed. In such circumstances it will be rearranged as soon as practicable. In the case of prolonged absences it may be decided to conduct the interview by telephone or by providing questions in writing. In the case of a minor witness it may be decided the evidence is not that important and the interview may not take place.

It should be noted that conducting an interview on the basis of submitting written questions and the receipt of written answers is a last resort. It is not an option automatically available to employees. If this option is chosen, the School reserves the right to clarify the answers provided by means of a face to face interview, where required and if practicable.

Whilst employees may feel “stressed” and anxious as a result of involvement in an investigation, issues will not be put on hold indefinitely awaiting an employee’s return to work. Employees may be referred to Occupational Health for advice and guidance on their ability to return to work and/or participation in the investigation.

What support is available?

School employees have access to Lincolnshire County Council’s Employee Support and Counselling Service, which can be accessed by telephoning (01522) 555440 or emailing emp.supportandcounselling@lincolnshire.gov.uk

The employee who is the subject of the investigation will also have a Support Officer identified. In some cases, if considered appropriate, other participants in the investigation, e.g. the complainant, may also have a Support Officer identified. At investigatory interviews, or disciplinary hearings, employees have the right to be accompanied – see below.

Can I have someone to accompany me to the interview?

The employee under investigation is entitled to be accompanied at an investigatory interview by either a School work colleague or recognised trade union officer/representative. There is generally no requirement for witnesses to be accompanied but they can also have a Council work colleague, recognised trade union officer/representative attend if they wish.

During an investigation interview the role of the hosen representative is as “silent support”. They should not take part in the interview other than to seek clarification of issues. They cannot answer questions on the employees

behalf and will be bound by the same confidentiality requirements as the employee.

As a witness can I refuse to be interviewed?

All school employees are expected to co-operate fully with employment investigations. Failure to do so could be considered misconduct. The school accepts that it may be difficult and distressing for employees to go through the interview process and that some may be reluctant to co-operate for fear of reprisals. However, it is expected that employees will make themselves available for interview and disciplinary hearings if required.

The school will not tolerate victimisation of any individual for co-operating with an investigation. Any unfair treatment or unacceptable behaviour should be reported to the Head Teacher or raised with the investigator and may be dealt with as misconduct.

Will I get a chance to give my side of the story?

Employees under investigation will generally be interviewed towards the end of employment investigations. It is recognised that in some circumstances the employee under investigation may be anxious to provide information to the investigator early on in the investigation and therefore the employee can request an early interview. Any such request will be carefully considered by the investigator. Similarly, the investigator will consider whether it would be useful to interview the subject of the investigation early on in the investigation. It should be noted that if the employee who is the subject of the investigation is interviewed early it is likely that he/she will need to be interviewed again at the end of the process, for clarification purposes.

What if I remember something important after my interview?

The investigator will advise those who are interviewed that if they later remember something important which is not covered within the interview statement, they should contact the investigator and arrange a further meeting or telephone interview (subject to the timescales for completion of the investigation).

What happens following the interview?

Following their investigatory interview employees will be provided with a copy of the statement they have provided during the interview and invited to confirm this as a true and accurate record of the interview. The interviewee is entitled to a copy of the interview statement.

In some instances, particularly if further allegations of misconduct emerge, it may be necessary to interview individuals further.

Appendix 23 – Guidance on the Role of Support Officer

Being the subject of an investigation, particularly one with possible disciplinary consequences, can be daunting and stressful for an employee, especially in circumstances where the employee concerned has been suspended from work or temporarily redeployed to work in a different area. For the employee who has not been suspended from work (eg who either remains in post or may have been given alternative duties) it can also be a difficult and stressful time.

Recognising the above, the role of Support Officer has been devised to provide support to employees under investigation. In cases where an employee has not been suspended from work, the Head Teacher may be able to carry out the Support Officer role, ie keep the employee aware of progress with the investigation. However, this is likely to be the exception rather than the norm and thought must be given to what is the best arrangement in a particular case.

It can also be difficult for the employee who raised the issue being investigated, eg who may have submitted a complaint. Therefore, it is good practice to decide whether or not (having regard to the circumstances of a particular case) it is also appropriate to identify a Support Officer to support other affected employees. In the case of an employee who has submitted a complaint, for example, there is provision for such a person to be allowed time off from work if this is considered appropriate. In such an event it may also be considered appropriate to identify a Support Officer for the employee concerned.

As Support Officers are most commonly used where employees are suspended from work, the following guidance concentrates on this situation. However, the guidance illustrates the Support Officer role for application in other circumstances, as identified above.

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.At the time of suspension from work, the suspended employee is provided with the name and contact details of a nominated Support Officer, as part of the written confirmation of the suspension. The employee is also asked to confirm that the nominated Support Officer is acceptable to him/her as it is important the employee feels comfortable with the Support Officer.

The Support Officer provides support to the suspended employee primarily (but not exclusively) during the investigation. This support does not include the provision of advice (or opinion) to the employee on the matter under investigation and/or assistance with the preparation of the employee's case.

The Support Officer role is additional to the other support facilities available to suspended employees. These include access to the Council's confidential Employee Support and Counselling Service and any support arrangements employees may arrange themselves; notably trade union support.

The Support Officer maintains regular contact with the suspended employee to inform him/her of the progress of the investigation. To this end the Support Officer will be kept up to date with progress with the investigation. The Support Officer will look to make regular contact with the suspended employee and will maintain a record of the contact with the employee.

The Support Officer role is, therefore, a pro-active role as opposed to a predominantly passive and reactive supporting role.

The Support Officer will be an appropriate person, as identified by management and must not be connected to the investigation or the suspended employee.

At any investigation interview, a suspended employee has the right to be accompanied by a School work colleague or recognised trade union officer/representative. If the suspended employee is not in a trade union he/she may ask for the Support Officer to accompany them as an alternative to a School work colleague, if this is preferred. However, in this capacity the Support Officer will act as "silent support" only, ie he/she will not take part in the interview or ask questions on behalf of the employee, other than to seek clarification of any points as necessary. Additionally, it will be for the Support Officer to decide whether he/she wishes to undertake this particular role as it is considered to be outside of the normal Support Officer role.

If the Support Officer is either unwilling or unable to accompany the suspended employee, during any investigatory interview, the employee concerned can re-consider the choice of a School work colleague to accompany them instead.

Should the matter under investigation progress to a formal Disciplinary Hearing, the Support Officer will not be permitted to provide support to the employee concerned, at the hearing; even in a "silent" capacity. Only an employee's recognised trade union officer/representative or School work colleague will be allowed to provide support at such times. They will be allowed to ask questions during the hearing, address the hearing on the employee's behalf and be given reasonable time to confer privately with the employee. However, he/she will not be allowed to answer questions on the employee's behalf.