



# Hemswell Cliff Primary School

## Disciplinary Policy

<u>Policy Information</u>			
<b>Status:</b>	Recommended	<b>Reviewed by:</b>	Finance and Personnel Committee
<b>Cycle of Review:</b>	Two years	<b>Policy Ratified:</b>	July 2019
<b>Signed as accepted:</b>			

**This policy is from the Local Authority and has been adopted by the governors of Hemswell Cliff Primary School to run alongside the Pay Policy and Grievance and Dignity and Work Policy.**

### 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 Headteacher and this is appropriate. However, where it is the Headteacher’s conduct that is a cause for concern, then the role assigned to the Headteacher 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 Headteacher 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.

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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.
- Headteachers 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 Headteacher should arrange to investigate the matter thoroughly. This can be done by the Headteacher 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 Headteacher (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 Headteacher of the establishment present. The planning and co-ordination of enquires will be agreed at this meeting. Where the allegations relate to a Headteacher the Chair of Governors (and Diocesan representative when the School is a Church School) should be invited instead of the Headteacher.

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 panel 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 Headteachers in the application of the Policy. They will advise Headteachers 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 Headteacher's conduct that is in question the Chair of Governors or other appropriate Governor assumes the role of the Headteacher.

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 employer to the National College of Teaching and Leadership will also refer the case.

### **Employee Absence during the Procedure**

Absence which is triggered by the disciplinary procedure and that the Headteacher 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

### **Appendices - attached to policy**

#### **Appendix One –Disciplinary Procedure**

Other Appendices are held on the school computer for printing as and when required.

Appendix 2	Template Letter 1	Suspension Notification
Appendix 3	Template Letter 2	Investigation notification
Appendix 4	Template Letter 3	Investigatory Interview Notification
Appendix 5	Template Letter 4	Further Allegations Notification
Appendix 6	Template Letter 5	Investigation Outcome Notification
Appendix 7	Template Letter 6	Disciplinary Hearing Notification
Appendix 8	Template Letter 7	Re-arranged Disciplinary Hearing Notification
Appendix 9		Strategy Meeting Checklist
Appendix 10	Template Letter 8	Disciplinary hearing outcome notification First/Final written warning Dismissal with notice Dismissal without notice
Appendix 11		Hearing Decision Record
Appendix 12		Investigation Brief
Appendix 13		Outcome of Investigation – Decision Record
Appendix 14		Record of Action
Appendix 15		Risk Assessment
Appendix 16		Guidance on Suspension from Work
Appendix 17		Protocol for Dealing with the Media on Employment Issues
Appendix 18		Disciplinary Hearing Procedure and Guidance Note
Appendix 19		Disciplinary Appeal Hearing Procedure
Appendix 20		Disciplinary Procedure – Alternative Arrangements
Appendix 21		Resignations and Referrals in Cases of Misconduct
Appendix 22		Employee Guidance to Employment Investigations
Appendix 23		Guidance on the Role of Support Officer

## **Appendix 1 Disciplinary Procedure**

### **Minor Conduct Issues – Informal Stage (including Preliminary Investigations)**

On becoming aware of an employee's alleged misconduct, the Headteacher 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 Headteacher and the employee consider it appropriate.

#### **The Headteacher 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 Headteacher 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 Headteacher 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 Headteacher'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 Headteacher 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 Headteacher feels that the allegation is serious enough to warrant disciplinary consideration, the Headteacher and employee will make and sign a written record of this. The Headteacher 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 Headteacher 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 Headteacher 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 Headteacher 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 Headteacher, 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
- Representative from Legal Services

Where the allegations are against the Headteacher other attendees include: a representative of the Diocese if the allegation is against a Headteacher 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 (*Appendix 9*).

It is the Headteacher'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 Headteacher 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 Headteacher 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 Headteacher 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 Headteacher will determine who will undertake the investigation. This may be decided at the Strategy Meeting or by the Headteacher 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 Headteacher 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 Headteacher. The Headteacher 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 Headteacher 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 Headteacher, 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 Headteacher 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 Headteacher 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 Headteacher, the employee, his/her representative and, normally, the Investigator. Both the Headteacher and the employee can submit documentation and call and question witnesses.

The Headteacher 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 Headteacher 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.