



SCHOOL STAFF DISCIPLINE PROCEDURE

(From Disciplinary and Dismissal Procedures for School Staff - Welsh Government circular no: 002/2013)

CONTENTS

CONTENT	PAGE NUMBER
Introduction, Purpose and Scope	3
Principles	4
Procedures	
Informal Discussion with headteacher	6
Formal Procedure for lesser misconduct	6
• Investigation	6
• Hearing before headteacher	7
• Informal action	8
• Warnings	9
• Appeals	11
• Referral for consideration under procedures for gross misconduct	11
Gross Misconduct (not child protection)	11
Allegations that involve issues of child protection	13
• Referral for independent investigation	15
• Appointment of independent non-governor	16
Hearings for all gross misconduct cases	16
Disciplinary hearings – appeal	18
Suspension	19
Appendix 1 – Timescales	21
Appendix 2 – Examples of lesser misconduct	24
Appendix 3 – Examples of gross misconduct	25
Appendix 4 – Disciplinary checklist	26
Appendix 5 – Procedure for organising hearings	27
Appendix 6 – Guidelines for hearings	28
Appendix 7 – Procedure for appeals	32
Standard Letters	33

Introduction

This model procedure presupposes that a delegation is in place allowing the headteacher to deal with accusations constituting lesser misconduct. Where this is not the case, suitable adjustments will need to be made.

1. This staff disciplinary procedure applies to school staff (with the exception of some school-based staff employed by the LA), supply staff provided by agencies and any self-employed supply staff. Members of staff have been made aware of this procedure and copies will be given to any member of staff who is the subject of any allegation.
2. All timescales included in this staff disciplinary procedure have been agreed by the governing body and the school's local staff unions. Depending on the circumstances of the case, there may need to be flexibility with these timescales, e.g. where there is a large amount of paperwork or unavailability of staff.
3. Where required throughout this procedure the chair of governors will take appropriate action unless they are compromised, in which case the vice chair of governors will take over the role and actions normally carried out by the chair. If the vice chair is also compromised the governing body will have to select another governor who is not compromised and minute this decision.

Purpose and Scope

4. The governing body is responsible for the conduct and discipline of school staff and is required to have a procedure in place for dealing with staff disciplinary matters.
5. Disciplinary procedures are necessary for promoting orderly employment relations, achieving fairness and consistency in the treatment of individuals and minimising disagreement about disciplinary matters.
6. This disciplinary procedure is intended to help and encourage all employees to achieve and maintain acceptable standards of conduct and to make clear to all concerned the procedure to be followed by this school and governing body to address concerns about an individual's behaviour or conduct and any subsequent disciplinary action that may be taken.
7. The aim of the procedure is to ensure consistent and fair treatment for all members of staff within the school.

Matters outside the scope of the procedure

8. The following matters are outside the scope of this disciplinary procedure:

- where employment is terminated:
 - by reason of redundancy
 - by an employee reaching the end of a temporary or fixed-term contract
- where any deficiencies in performance on the part of the staff member arise from a lack of aptitude or skill (in such cases the capability procedure will be used)
- staff grievances and grievances lodged as a result of disciplinary action. If, however, action under the staff grievance procedure results in the need for disciplinary action then this disciplinary and dismissal procedure will apply
- termination during or at the end of a probationary period, whether or not extended beyond its originally specified duration
- matters which ought to be dealt with through the governing body's general complaints procedure and which do not raise staff disciplinary issues for individual members of school staff
- **for Foundation and voluntary aided schools only** – the function of the staff disciplinary and dismissal committee of a foundation school, foundation special school or voluntary-aided school to decide that a person employed at the school should not have their contract of employment renewed.

Principles

9. This procedure is a way of helping and encouraging improvement in members of staff whose conduct is unsatisfactory and is not to be viewed as simply a means of imposing sanctions or punishment.
10. In all cases, the school and governing body will ensure that disciplinary cases are dealt with in an unbiased, open and fair way.
11. The principles in summary are as follows:
 - a) Where appropriate, every effort will be made to address concerns about behaviour or conduct without recourse to formal procedures.
 - b) No disciplinary action will be taken against a member of staff until the case has been fully investigated by a person who has no connection with the case in question.
 - c) An investigator will be impartial suitably qualified and experienced. Reasonable objections to an investigator relating to their inability to act impartially, or their competence for the role, will mean that the investigator will be changed.

- d) Where it is decided to deal with a disciplinary matter through lesser misconduct procedures, the member of staff will be informed of the allegation against them and will be given the opportunity to defend the allegation at the disciplinary hearing before the headteacher (or the chair of governors for allegations against the headteacher).
- e) A member of staff will not be dismissed for a first breach of discipline in cases of lesser misconduct. However, should this lesser misconduct be repeated it may result in the member of staff being disciplined for gross misconduct (See Appendix 3) as they are not moderating or amending their behaviour. This should be made clear to the member of staff when discussing their behaviour and the improvements/ changes expected.
- f) Where it is decided to proceed to the formal stage, i.e. the allegations amount to gross misconduct, the member of staff will be informed of the allegation, date, time and place of any hearing before the governing body staff disciplinary and dismissal committee (subject to mutual agreement), the purpose of the hearing and the stage reached in the disciplinary procedure.
- g) The member of staff will be provided with the membership of the staff disciplinary and dismissal committee prior to a hearing and advised of their right of objection to any committee member on the basis of evidence that calls into question their ability to act impartially in the circumstances of the case.
- h) The member of staff will be provided, prior to the hearing, with the name of the presenting officer, the names of persons who will be present at the hearing and in what capacity, full details of the allegations, an outline of the evidence to be presented with supporting evidence, the names of any witness to be called and copies of written statements.
- i) The member of staff will have the right to be accompanied by a work colleague or a representative of their trade union during the investigation, the disciplinary hearing and the appeal hearing.
- j) Dismissal for gross misconduct will take place immediately following the decision of the staff disciplinary and dismissal committee or following the outcome of any appeal by the member of staff. Dismissal under these circumstances will be without notice or payment in lieu of notice.
- k) A member of staff will have the right to appeal against any disciplinary sanction imposed by the headteacher (or chair of governors for allegations against the headteacher) in respect of lesser misconduct matters, or the staff disciplinary and dismissal committee in respect of gross misconduct matters.
- l) The process will be supportive towards the needs of the member of staff.

- m) Investigations and hearings will be conducted (all or part) in English or Welsh, or with access to interpretation, at the request of the member of staff.

Informal discussion with the headteacher – outside of disciplinary process

12. There will be occasions when it is appropriate for a member of staff's actions to be discussed with them as part of normal supervisory arrangements and without recourse to the formal procedures. In these circumstances the member of staff will be given guidance and support from their line manager. This could take the form of advice, counselling, training instruction, coaching or other managerial strategies as is appropriate. Such activity may be delegated to a member of the senior management team. In respect of the headteacher however, this would be carried out by the chair of governors with advice and support from the LA HR advisor.
13. The aim of this action is to ensure that problems are discussed so as to encourage and help the member of staff to improve and understand:
- what they need to do in relation to their conduct
 - how future conduct will be monitored and reviewed
 - the period of time over which conduct will be monitored
 - that formal action might be taken if the conduct in question recurs.
14. Where discussions and support structures which have been put in place to help the member of staff do not lead to the necessary improvement or the relevant changes in conduct, within the agreed timescale, the member of staff will normally be advised in writing of further action to be taken, which may be formal.

Formal procedure for lesser misconduct

15. Responsibility for disciplinary matters where the allegation could constitute lesser misconduct is usually delegated by the governing body to the headteacher.
16. If an allegation which could constitute lesser misconduct is made against the headteacher, the chair of governors will be responsible for disciplinary action.

The investigation

17. As soon as the alleged breach of discipline has been brought to the attention of the headteacher (or the chair of governors in the case of the headteacher) a full investigation must be carried out. **Where possible** the headteacher or chair of governors will arrange for any investigation to be carried out externally, e.g. by the LA, diocesan authority (where appropriate) or a person who is unbiased (the cost of any investigation will be met from the school's budget).

18. The member of staff who is the subject of the alleged breach of discipline, and all witnesses, will be interviewed and requested to provide a signed statement. Notes will be taken at all investigation meetings and a copy given to the party involved. No undertaking of confidentiality will be given to witnesses; however, the overall confidentiality of the disciplinary process will be respected.
19. The member of staff will be given the opportunity to respond to the allegation and will have the right to be accompanied by a work colleague or a representative of their trade union at an investigation interview meeting.
20. Once the investigation has been concluded, the investigating officer will present the findings to the headteacher (or the chair of governors in the case of a headteacher) in a written report. This will be done as soon as practicable after the conclusion of the investigation. The investigation report will be based on matters of fact and not opinions; references to or expressions of views on the personalities of individuals will not form a part of the report.
21. The headteacher (or chair of governors in the case of a headteacher) may conclude that:
 - no further action will be taken
 - matters can be dealt with by informal discussion (refer to paragraphs 12–14 of this procedure)
 - there appears to be sufficient evidence for a hearing before the headteacher (or chair of governors if the headteacher is to be disciplined) and the possible outcome may be sanctions short of dismissal
 - there appears to be sufficient evidence that the allegation constitutes gross misconduct to trigger a formal disciplinary hearing before the staff disciplinary and dismissal committee.
22. Where dismissal could result because a member of staff is currently on a final written warning, the case must be referred to the staff disciplinary and dismissal committee.

The hearing before the headteacher (or chair of governors in respect of the headteacher)

23. Conduct that is considered to fall within the scope of lesser misconduct has been delegated to the headteacher to deal with. The chair of governors will deal with lesser misconduct allegations against the headteacher. A hearing will take place with the headteacher (or the chair of governors in respect of the headteacher) supported by advice from the LA or diocesan authority (where appropriate). Should the chair of governors be compromised this role should be delegated to the vice chair (providing the vice chair is not compromised).

24. The member of staff will be sent a copy of these procedures and will be informed in writing of the following information:
- the nature of the alleged misconduct
 - the stage reached in the procedure
 - the date, time and place for the hearing
 - the possible outcome of the hearing
 - their right to:
 - produce written statements which will be circulated to all parties in advance of the hearing
 - ask questions relating to any written statements so produced
 - state their case in person and/ or through a representative
 - produce witnesses
 - be accompanied by a trade union representative or work colleague of their choice.
25. There are five possible outcomes following on from such a hearing:
- informal action
 - oral warning
 - first written warning
 - final written warning
 - referral to a disciplinary hearing before the governing body's staff disciplinary and dismissal committee.
26. In many cases lesser misconduct can be dealt with in the first instance by informal action. However, there may be occasions when it will be appropriate to give a member of staff an oral warning or a written warning. The sanctions used will depend on the circumstances of the member of staff's behaviour.
27. Further advice on each of these sanctions is set out below. The sanctions a member of staff could receive will be in line with the nature and severity of the allegation. However, there may be occasions where a member of staff has had repeated lesser misconduct allegations against them and has not altered or improved their behaviour. This may result in a more severe sanction being given, e.g. a final written warning. Alternatively, the lesser misconduct behaviour may be serious enough to warrant an immediate final written warning instead of any other sanction.

Informal action

28. As a result of the hearing, the headteacher (or the chair of governors in respect of the headteacher), with support from the LA HR advisor, may deal with matters by giving advice, counselling, training instruction, coaching or other managerial strategies as is appropriate. Such activity may be delegated to a member of the senior management team. In respect of the headteacher however this will be carried out by the chair of governors with advice and support from the LA HR advisor.

29. The aim of this action is to ensure that problems are discussed so as to encourage and help the member of staff to improve. The member of staff needs to understand:
- what they need to do in relation to their conduct
 - how future conduct will be monitored and reviewed
 - the period of time over which conduct will be monitored
 - that formal action might be taken if the conduct in question recurs.
30. Where discussions and support structures which have been put in place to help the member of staff do not lead to improvement or the relevant changes in conduct in the agreed timescale, the member of staff will normally be advised in writing of further action to be taken.

Warnings

31. Where the member of staff's conduct is satisfactory for the specified period of a warning such warnings will be expunged from the staff member's file after a specified period and cannot be referred to again once spent.
- Suitable periods would be:
- oral warning – three months
 - first written warning – six months
 - final written warning – 12 months.

Oral warning

32. If at the conclusion of the hearing it is decided to proceed with disciplinary action by way of an oral warning, the headteacher (or the chair of governors in respect of the headteacher) will issue the oral warning to the member of staff in the presence of their trade union representative or work colleague.
33. An oral warning will be confirmed in writing (with a copy to any person who accompanies the member of staff in accordance with these procedures) and will state:
- the nature of the misconduct
 - the stage reached in the procedure
 - what is expected for the future
 - the right to appeal, the time limit within which the appeal should be made, and how the appeal should be made.
34. The member of staff will be required to indicate receipt of the written confirmation of the oral warning. A record of the warning will be placed on the member of staff's file. Where the member of staff's conduct is satisfactory for the specified period (usually three months) following an oral warning, such warnings shall be expunged from their record and therefore cannot be referred to again once spent.

First written warning

35. If at the conclusion of the hearing, it is decided to proceed with disciplinary action by way of a first written warning, the headteacher (or the chair of governors in respect of the headteacher), will issue the first written warning to the member of staff in the presence of their trade union representative or work colleague.
36. With the agreement of the member of staff a written warning will be copied to any person who accompanies the member of staff in accordance with these procedures) and will state:
- the nature of the misconduct
 - the stage reached in the procedure
 - what is expected for the future
 - the right to appeal, the time limit within which the appeal should be made, and how the appeal should be made.
37. The member of staff will be required to indicate receipt of the written warning. A copy of the warning will be placed on the member of staff's file. Where the member of staff's conduct is satisfactory for the specified period (usually six months) following a written warning, such warning shall be expunged from their record and therefore cannot be referred to again once spent.

Final written warning

38. A final written warning may be issued where lesser misconduct recurs despite attempts by senior managers to support the member of staff and improve their behaviour or conduct. A final written warning may also be issued where a single instance of proven misconduct is considered to be of a serious nature.
39. Final warnings may be given following a hearing before the headteacher (or the chair of governors in respect of the headteacher) who will issue a final written warning to the member of staff in the presence of their trade union official or work colleague.
40. With the agreement of the member of staff a final warning will be copied to any person who accompanies the member of staff in accordance with these procedures) and will state:
- the nature of the misconduct
 - the stage reached in the procedure
 - what is expected for the future
 - that the next stage will be dismissal
 - the right to appeal, the time limit within which the appeal should be made, and how the appeal should be made.
41. The member of staff will be required to indicate receipt of the written confirmation of final warning. A record of the warning will be placed on the

member of staff's file. Where a member of staff's conduct is satisfactory for the specified period (usually 12 months) following a final warning, such warning shall be expunged from their record and therefore cannot be referred to again once spent. At the end of the period of the final written warning, if the member of staff's behaviour has not improved, the matter can be referred to the staff disciplinary and dismissal committee for a formal hearing which could result in dismissal. The member of staff must be informed of this at the time the final written warning is issued.

Appeals against formal warnings

42. There is a right of appeal against any disciplinary action (refer to paragraphs 79–85 of this procedure for information on appeals).

Referral for consideration under procedures for gross misconduct

43. There may be rare occasions where, at the end of an investigation into lesser misconduct matters, the evidence in the investigation report indicates that the behaviour constitutes gross misconduct. If the headteacher (or chair of governors in respect of the headteacher) with support from the LA or diocesan officer or another agreed appropriate person, concludes that this is the case, a referral for formal disciplinary action for gross misconduct may be justified. In these circumstances the member of staff will be informed immediately of the decision made and that the matter is being referred to the staff disciplinary and dismissal committee for their consideration. The most appropriate way for a member of staff or headteacher and their respective trade union representatives to be informed of this decision will be through a meeting with the headteacher (or chair of governors in respect of the headteacher). As this is likely to be a rare occurrence this meeting does not form part of the lesser misconduct process.

Gross misconduct (where the allegation does not relate to child protection issues)

44. The term gross misconduct is used to mean an act, or omission, or a series of actions or omissions by a member of staff that fundamentally repudiates the contract of employment. All gross misconduct allegations will be subject to a formal disciplinary hearing before the governing body's staff disciplinary and dismissal committee. The staff disciplinary and dismissal committee and staff disciplinary and dismissal appeals committee shall each have a minimum of three governors. The committees should not consist of any members of staff at the school. The staff disciplinary and dismissal appeals committee must have at least the same number of governors as the staff disciplinary and dismissal committee. No governor will be a member of both committees and both committees will also have separate advisers.

45. Where alleged gross misconduct is to be considered responsibility for the arrangements to set up a disciplinary investigation rests with the chair of governors through the clerk to the governing body. Appendix 5 provides more information about setting up hearings.
46. Gross misconduct allegations are usually sent to the headteacher (or chair of governors if the allegation is about the headteacher). On receipt of an allegation the headteacher (or chair of the governors) will make an initial assessment of the situation (but not investigate) to determine the nature and circumstances of the allegation, i.e. witnesses, when it occurred, etc. If the conclusion is that the allegation may be true the member of staff and their trade union representative will be informed of the allegation immediately and that the formal disciplinary process is being engaged.
47. The headteacher (or chair of governors) will arrange for the allegation to be thoroughly and fairly investigated. At this point the member of staff may be suspended by the headteacher (or chair of governors), on full pay and in line with the governing body's agreed procedure. Both the headteacher and chair of governors can suspend staff but only the governing body can end a suspension. The governing body has delegated this function to the chair of governors/the chair of the staff disciplinary and dismissal committee. The decision has been minuted. Suspensions will be reviewed by the chair of governors at intervals set out in this disciplinary procedure (Appendix 1) and the outcome will be reported to the member of staff and the governing body.
48. However, if after making the initial assessment of the allegation the conclusion of the headteacher (or chair of governors in respect of an allegation against the headteacher) is that beyond any doubt it is impossible for the allegation to be true, the headteacher (or chair of governors) may take no further action. The member of staff and their union representative will be informed immediately of this decision.

The investigation

49. As a possible outcome for gross misconduct hearings is dismissal, it is important that investigations into gross misconduct allegations are unbiased and thorough. Consequently, and **wherever possible**, all investigation will be carried out externally by an appropriate person who has no connection or involvement with the case and has the relevant skills. The governing body may engage, for example, LA or diocesan officers, ex-headteachers or ex-LA officers, who are impartial and have no connections with the case (the cost of any investigation will be met from the school's budget). Only in exceptional circumstances would the chair of governors, members of staff or governors be asked to investigate gross misconduct cases. The chair of governors is responsible for controlling and managing all aspects of the disciplinary process including the engagement of an appropriate investigator. The member of staff has the

right to object to an investigator if they have reasonable doubts as to their ability to act impartially.

50. Prior to the investigation, the member of staff will be informed in writing of their rights under the school's disciplinary procedure, including the right to be accompanied by a work colleague or a representative of their trade union, at all meetings held in connection with the disciplinary matter.
51. Notes will be taken of the meeting and a copy given to the member of staff and their trade union representative following the meeting. No undertaking of confidentiality can be given to witnesses, however the overall confidentiality of the disciplinary process will be respected.

The investigation report

52. The report, once completed, will be given to the headteacher and the chair of governors (or chair of governors and another governor in respect of investigations into the conduct of the headteacher) who will consider the findings and decide whether, based on the findings of the report:
 - there is no evidence to support the allegations and the matter is closed
 - the conduct does not amount to gross misconduct but to lesser misconduct which can be dealt with by the appropriate person
 - based on evidence, the conduct does amount to gross misconduct and is required to be referred to a staff disciplinary and dismissal hearing.
53. This discussion and decision will be minuted by the clerk. The member of staff will be advised of the outcome of the investigation as soon as possible in writing by the clerk to the staff disciplinary and dismissal committee.
54. A copy of the investigation report, including all interview notes, will automatically be provided to the member of staff against whom the allegation has been made, within the timescales set out in this disciplinary procedure (Appendix 1), if the case is to proceed as outlined above.

Allegations that involve issues of child protection – receipt of an allegation

55. Allegations involving issues of child protection will be brought immediately to the attention of the headteacher (or the chair of governors if the allegation is in respect of the headteacher) and the designated child protection officer in the school and referred to the statutory authorities, e.g. the police and social services.
56. The headteacher (or chair of the governors in respect of the headteacher) will make an initial assessment (but not investigate) to determine the nature and circumstances of the allegation, i.e. witnesses, when it occurred, etc. If the conclusion is that beyond any doubt it is impossible for

the allegation to be true the matter will be discussed by the chair of governors, headteacher and the lead child protection officer in the LA, to determine whether a referral to social services and/ or the police is required. If the allegation is about the headteacher the chair of governors will have the same discussion without the headteacher being present. If the conclusion of all parties is that it is impossible for the allegation to be true the headteacher or chair of governors may not take any further action against the member of staff and no referral to the statutory authorities is required. If there is any doubt and agreement between these parties cannot be reached, the matter will be referred to the statutory authorities.

57. If however, the initial assessment by the headteacher (or chair of governors if the allegation is about the headteacher), in discussion with the LA lead child protection officer, indicates that an allegation might be true, there will be an immediate referral to the statutory authorities (social services and/ or the police), in accordance with local child protection procedures.
58. The member of staff and their union representative will normally be informed of the decision, as agreed by the statutory authorities, that a referral is being made. However, there may be some circumstances where this will not be appropriate. At this point the headteacher (or chair of governors if the allegation is about the headteacher) may suspend the member of staff, on full pay, in line with the governing body's agreed procedures. Both the headteacher and chair of governors can suspend a member of staff but only the governing body can end a suspension. The governing body has delegated this function to the chair of governors/ the chair of the staff disciplinary and dismissal committee. The decision has been minuted. Suspensions will be reviewed at intervals set out in the disciplinary procedure (Appendix 1) and the outcome reported to the member of staff and the governing body.
59. After the statutory authorities (e.g. the police and social services) have completed their consideration of the allegation, it will be referred back to the governing body to complete the staff disciplinary process. This will happen even if the statutory authorities take the decision not to pursue a criminal investigation.
60. The headteacher and chair of governors (or the chair of governors and another governor if the headteacher is the subject of the allegation), with advice from the school's designated child protection officer and LA lead child protection officer as appropriate, will discuss:
 - whether the allegation is of a child protection nature and the behaviour constitutes gross misconduct which requires it to be independently investigated prior to any disciplinary hearing
 - whether there is evidence of misconduct which should be treated as lesser misconduct
 - whether no further action is required.

61. If there is any doubt at all, or agreement cannot be reached as to whether the matter is a child protection issue, the allegation will be independently investigated.

Referral for an independent investigation

62. The requirement in education law is that the governing body must refer child protection allegations for independent investigation. In order to make the process easier this task has been delegated to the chair of governors and the governing body's decision to this effect has been minuted. This must be done prior to the hearing of any disciplinary proceedings. The independent investigator's contact in relation to the running of the investigation will be with the governing body (e.g. the chair of governors) and not the LA or headteacher. The purpose of an independent investigation is to enable the governing body to comply with the law and to provide members of the staff disciplinary and dismissal committee with a thorough and unbiased investigation report, produced by persons with appropriate skills and training, to enable them to reach fair and balanced decisions.
63. The independent investigator will be appointed as soon as the governing body makes a referral; however, the independent investigator will not commence the investigation until after the statutory authorities have completed their investigation. Once the statutory authorities have completed their investigation the independent investigator will then be able to conduct their investigation.

The independent investigation

64. The independent investigator will set the parameters of the investigation and interview all witnesses in order to ensure a completely impartial and unbiased investigation is carried out. The report will not contain any conclusions and recommendations as these are matters for the committee to determine.

The independent investigation report

65. The report, once completed, will be given to the headteacher and chair of governors (or chair of governors and another governor in respect of investigations into the conduct of the headteacher). They will consider these findings and decide whether, based on the findings of the report:
- there is evidence to support a decision that the child protection allegations are well-founded, that they constitute gross misconduct behaviour and that they will require a disciplinary hearing before the staff disciplinary and dismissal committee
 - there is evidence to support a decision that the allegation constitutes lesser misconduct behaviour which can be dealt with by the

headteacher (or chair of governors if the allegation is against the headteacher)

- there is no evidence to support the child protection allegation and no further action needs to be taken against the member of staff.

66. If there is any doubt at all, or agreement cannot be reached by the headteacher or the chair of governors (or the chair of governors and another governor in respect of the headteacher), the matter will be referred for a full hearing before the staff disciplinary and dismissal committee.
67. The member of staff and trade union representative will be informed of the decision as soon as reasonably practicable.
68. The chair of governors will ensure that all relevant papers, including the full investigation report, are sent to the member of staff and/ or their union representative, the person presenting the case against the member of staff, and members of the staff disciplinary and dismissal committee within the timescales set out in this procedure (Appendix 1).
69. No evidence will be removed by any party from the investigation report before it is sent to the governing body staff disciplinary and dismissal committee.

Appointment of independent non-governor member on staff disciplinary and dismissal committees and staff disciplinary and dismissal appeals committees dealing with child protection allegations

70. As required in law the staff disciplinary and dismissal committee and the staff disciplinary and dismissal appeals committee will have at least two governors plus an independent non-governor with voting rights. The appeal committee will have the same number of governors as the first committee. The governors, including the independent non-governor on the appeal committee will be different from those on the first committee.

The disciplinary hearing in respect of all gross misconduct cases

71. A disciplinary hearing will be held as soon as it can be arranged by the clerk to the staff disciplinary and dismissal committee (see Appendix 5) even if the member of staff has subsequently resigned or is on sick leave.
72. The member of staff will be informed in writing of:
- the date, time and place for the disciplinary hearing, seeking agreement to dates from members of the committee, the member of staff, any witnesses appearing in person and the LA and diocesan authority (if appropriate)
 - the purpose of the hearing and the range of possible outcomes
 - the right of the member of staff to be accompanied by a work colleague or representative of the member of staff's trade union

- the membership of the staff disciplinary and dismissal committee and staff disciplinary and dismissal appeals committee
 - the name of the person presenting the case against the member of staff
 - the full details of the allegation, the evidence to be presented and the names of any witnesses to be called, etc.
 - who is to be the adviser to the staff disciplinary and dismissal committee and the staff disciplinary and dismissal appeals committee
 - the date by which all relevant documentation should be received by the clerk prior to the hearing.
- 73.** The clerk will arrange for the documentation from both parties to be distributed to the member of staff and their representative prior to the hearing, including up-to-date procedures, in accordance with the timescales set out in this procedure.
- 74.** The staff member will be afforded the right to object to any member of the committee or the investigator on the basis of evidence that calls into question their ability to act impartially in the circumstances of the case.

At the hearing

- 75.** The hearing (Appendix 6) will be conducted in a fair manner with all parties having the opportunity to present evidence and call and question witnesses. There will also be an opportunity for the presenting officer and the member of staff and/ or their trade union representative to summarise their case. The clerk to the governing body will be present to record the hearing in detail.
- 76.** Once this part of the hearing is completed there will be an opportunity for the staff disciplinary and dismissal committee to receive advice. Once this is received members of the committee will be left alone with the clerk to discuss the evidence and make their decision. Where possible this will be given verbally at the end of the hearing. If for some reason this is not possible the committee's decision will be given in writing to the member of staff as soon as possible after the hearing. At this point the member of staff will also be informed of their right to appeal and the timescale within which this must be made.

Decision reached after the hearing has taken place

- 77.** Having considered all the evidence and taken into account advice provided, the staff disciplinary and dismissal committee may conclude that:
- the allegation is unproven and there is no action to be taken
 - the alleged behaviour constitutes lesser misconduct and a formal oral, written warning or final written warning should be issued
 - the allegation of gross misconduct is proven and, depending on the severity of the misconduct, an appropriate sanction shall be imposed.

Possible sanctions may be:

- relegation to a lower-graded position (if practical and appropriate) and loss of salary
- specified training and development
- issue of a formal warning (where the alleged behaviour constitutes lesser misconduct)
- dismissal of the member of staff without notice.

78. Matters that are considered lesser misconduct will be dealt with by means of formal action set out in paragraphs 28–41.

Disciplinary hearing – appeal

79. A member of staff is entitled to appeal against a decision of the staff disciplinary and dismissal committee. The notice of the intention to appeal needs to be lodged with the clerk to the staff disciplinary and dismissal appeals committee within the specified time limit set out in this procedure (Appendix 1). The appeal notice will need to include the grounds for the appeal.

80. The appeal will be heard by the disciplinary and dismissal appeals committee within a specified time set out in this procedure (Appendix 1). Appeal hearings will focus on the issues set out in the appeal notification, therefore the appeal process may not always take the form of a complete hearing. However, under certain circumstances (e.g. where new evidence comes to light or the first hearing process was flawed or biased) it may be appropriate to rehear part, if not all, of the case. The member of staff will be given notice of the date and time of the appeal hearing. Agreeable times and dates will be arranged for all parties concerned where possible.

81. The staff disciplinary and dismissal appeals committee may, after considering all the facts presented to it, including any new evidence, come to one of three conclusions:

- uphold the decision of the staff disciplinary and dismissal committee
- impose a lesser penalty
- conclude that no disciplinary action should be taken against the member of staff.

82. The staff disciplinary and dismissal appeals committee cannot impose a more severe penalty than that imposed by the headteacher (or chair of governors in respect of the headteacher) in lesser misconduct cases or the staff disciplinary and dismissal committee in gross misconduct cases.

83. The decision of the staff disciplinary and dismissal appeals committee will be final and the staff member will be informed in writing.

84. The member of staff will be given a copy of the minutes of the appeal hearing and a copy of the disciplinary and dismissal appeals committee's conclusions.
85. If, as the result of an appeal, disciplinary action is withdrawn, all details thereof will be expunged from the member of staff's personal file and they will be informed accordingly. The member of staff will be given a copy of the minutes of the appeal hearing and a copy of the disciplinary and dismissal appeals committee's conclusions.

Suspension

86. Suspension pending disciplinary proceedings will normally only be considered where allegations relate to gross misconduct behaviour and where:
- it appears to be necessary to exclude the member of staff from the school, for the protection of pupils, other staff or property or the orderly conduct of the school;
 - the continued presence at work of the member of staff would be an obstacle to proper investigation of the allegations made against that member of staff.
87. Suspension is a serious step and will not be used in a punitive way. Suspension will be on full pay and without loss of emoluments. The continued effect of the suspension will be kept under review and the outcome of the review reported to the member of staff and the governing body.
88. The decision to suspend can be taken by the headteacher or the chair of governors but only the governing body can end a suspension. However the governing body has delegated the task of ending a suspension to the chair of governors/the chair of the staff disciplinary and dismissal committee.
89. The decision to suspend will be discussed with the headteacher, chair of governors (or vice chair if the chair is not available) in consultation with the chief education officer of the maintaining LA and, where applicable, the diocesan authority, prior to implementing any suspension or redeployment. Written notice will be given to all relevant parties following a decision to suspend.
90. If the staff member is absent due to sickness, the staff disciplinary and dismissal committee will usually postpone the hearing. However, where the staff member may be absent for an indeterminate period, the staff disciplinary and dismissal committee may decide to hold the hearing provided that it has informed the member of staff and their representative and has offered the member of staff the opportunity to send a representative or submit written evidence to present their case. The

representative will have the same opportunity as the staff member to present evidence, call witnesses and sum up the staff member's case.

Summary

91. In adopting this procedure the governing body has taken due regard of advice and guidance from the LA and the *Disciplinary and dismissal procedures for school staff* Welsh Government circular no: 002/2013 (2013). It has also been notified that the Local Authority have consulted trade union representatives.
92. The governing body will also consult further before any amendments are made to this disciplinary procedure.

Further detailed guidance on the stages of this policy can be found in the revised *Disciplinary and dismissal procedures for school staff* Welsh Government circular no: 002/2013

Signed by chair of governors:
(on behalf of the governing body)

Date approved:

Appendix 1

Timescales related to Disciplinary Procedure (Addressed in Annex F of WG document)

There may need to be flexibility with timescales depending on the circumstances, e.g. where there is a large amount of paperwork or unavailability of staff or governors.

Activity	Timescales (SCHOOL days)	Parties Involved
Preliminary assessment	Immediately upon notification of allegation	Headteacher (or chair of governors in respect of the headteacher)
Suspension meeting	Following preliminary assessment - No notice required	Headteacher (or chair of governors in respect of the headteacher), employee, their work colleague or trade union representative and HR People Services
Suspension reviews	Every 20 days	Headteacher (or chair of governors in respect of the headteacher)
Appointment of investigating officer (non child protection)	Upon receipt of preliminary investigation	Headteacher (or chair of governors in respect of the headteacher)
Appointment of investigating officer (child protection cases)	Upon conclusion of the statutory processes	Chair of Governors
Notice of investigatory interviews	5 days	Investigating Officer, employee and witnesses and their work colleague or trade union representative (HR People Services if required)
Length of investigation (non child protection)	40 days (with review after 20 days)	Investigating Officer
Length of investigation (child protection)	Ideally 40 days (with review after 20 days) but as cases can be complex more time may be needed	Independent Investigator

Decision to proceed to hearing or not	On receipt of investigation report	Headteacher (or chair of governors in respect of the headteacher) for lesser misconduct. Headteacher and chair of governors for gross misconduct and child protection cases
Arrangements for the disciplinary hearing	Immediately upon notification of decision to proceed	Headteacher (or chair of governors in respect of the headteacher), trade union representative, HR People Services for lesser misconduct. Clerk to governors, trade union representative, HR People Services and committee members for gross misconduct
Notice of disciplinary hearings *	10 days as a minimum	Clerk to governors
Provision of documents to be relied on by management to the member of staff	With the notice of disciplinary hearing	Clerk to governors
Provision of documents to be relied on by employee	5 days before the hearing	Employee (or their trade union representative)
Provision of all documents to the committee	2 days before the hearing	Clerk to Governors
Notification of disciplinary/ appeal decision to member of staff	In writing within 5 days of hearing	Headteacher (or chair of governors in respect of the headteacher) for lesser misconduct. Chair of staff disciplinary and dismissal committee (via Clerk to Governors) for gross misconduct
Notification of appeal from employee	Within 5 days of receiving the outcome	Employee (or their trade union representative)

Arrangements for the disciplinary appeal hearing *	Immediately upon notification of appeal	Headteacher (or chair of governors in respect of the headteacher), trade union representative, HR People Services for lesser misconduct. Clerk to governors, trade union representative, HR People Services and committee members for gross misconduct
Notice of disciplinary appeal hearings	10 days as a minimum	Clerk to governors

* These will be organised by clerk to the governing body in line with Appendix 5

Examples of Lesser Misconduct Behaviour (Annex B1 in WG document)

The list below is offered by way of example to indicate how behaviour may be regarded. This is not an exhaustive list and is provided for illustrative purposes only. Judging the level of misconduct and how it must be handled has to be undertaken on the facts of the each case.

Breaches of discipline under this heading will not normally result in dismissal for a first offence, but may result in dismissal if repeated.

Lesser misconduct might include:

- specified conduct which is incompatible with the ethos and precepts of the school as set out in the school's prospectus, website, school staff terms and conditions of employment, etc
- poor timekeeping and/ or unauthorised absence (e.g. absence from the workplace during school sessions without permission or in line with the school's policy)
- refusal to carry out a reasonable instruction
- causing damage to property/ equipment through negligence or not having due regard to school property
- causing unintentional superficial injury to a member of staff/ pupil
- using inappropriate language
- petty theft, e.g. making unauthorised private telephone calls or sending personal mail at the school's expense
- breach of dignity at work policies
- unauthorised use of mobile phone/ text messaging/ social networking sites during lesson time

Examples of Gross Misconduct Behaviour (Annex B2 in WG document)

Gross misconduct can be defined as an act, or series of actions, that fundamentally repudiates the contract of employment so that the governing body would be justified in no longer tolerating the continued presence at work of the member of staff. These acts may justify summary dismissal without notice or payment in lieu of notice. The list below is offered only by way of example to indicate how behaviour may be regarded. This is not an exhaustive list and is provided for illustrative purposes only. Judging the level of misconduct and how it must be handled has to be undertaken on the facts of each case.

Gross misconduct might include:

- specified conduct which is incompatible with the ethos and precepts of the school as set out in the school's prospectus, website, school staff terms and conditions of employment, etc
- fraudulent acts or thefts of property belonging to the LA, the school, fellow members of staff or pupils
- deliberate and serious damage to property belonging to the LA, the school, fellow members of staff or pupils
- violent behaviour including physical assault
- continuous bullying
- harassment or unlawful discrimination on any grounds
- physical, sexual or emotional abuse of pupils
- sexual misconduct at work
- physical violence
- gross negligence
- causing loss, damage or injury through serious negligence
- serious incapability at work brought on by alcohol or other illegal substances on school premises
- serious insubordination
- deliberately accessing offensive or obscene material via internet sites, social networking sites or by messaging
- inappropriate texting
- theft or fraud in and out of the workplace
- dishonesty (e.g. tampering with examination papers, revealing examinations papers prior to examinations or altering examination results)
- serious violation of the LA or the schools' health and safety rules and standards
- criminal misconduct outside the workplace which reflects adversely upon the school or the member of staff's suitability to continue to be employed at the school
- knowingly providing false information on any matter relating to the member of staff's employment
- disclosure of confidential personal information
- serious breaches of health and safety
- humiliation of staff, victimisation of colleagues, parents/ carers or pupils

Appendix 4

Disciplinary Checklist (Annex G in WG document)

Before reaching a finding in a disciplinary hearing the person or persons hearing the case should consider the following questions. The first 6 questions should be considered in respect of each allegation and the remainder before deciding what penalty to impose. Each allegation requires a separate finding, but one decision can be made in respect of all of them. Responses should be recorded and kept with the other records of the disciplinary hearing

Question	Yes/No	Comments
1. Has there been as much investigation as is reasonable in the circumstances?		
2. Were the investigation and the presentation of the investigation report factual, impartial, reliable, comprehensive and unbiased?		
3. Have the requirements of the disciplinary procedure been properly complied with up to this point, including advance notice to the employee of the matter(s) to be considered at this hearing?		
4. Have I paid sufficient regard to any explanations put forward by or on behalf of the employee?		
5. From what I have heard at the hearing, do I genuinely believe that the employee has committed the misconduct as alleged?		
6. Have I reasonable grounds on which to sustain that belief on the balance of probabilities, i.e. is it more likely than less likely that the employee did what is alleged, acknowledging that the likelihood diminishes as the severity of the allegation increases?		
7. Is the misconduct sufficiently serious to justify the disciplinary decision I am contemplating?		
8. If the circumstances (including any mitigating factors) are indistinguishable from one or more earlier or concurrent disciplinary proceedings against employees in a similar position to this employee in the school, is the decision I am contemplating reasonably consistent with decisions in those instances, or am I justified in distinguishing one from the other?		
9. Is the decision I am contemplating free of bias against the employee related to his or her sex, marital status, racial origin, disability, sexuality, religion or trade union activities (membership or non-membership)?		
10. Have I provided the employee and/ or their representative with an opportunity at this hearing to put forward any points for me to consider in mitigation before deciding the disciplinary sanction, and have I had regard to these and to any response to them by management's representative?		
10. Is the decision within the band of reasonable responses of a reasonable employer in the circumstances?		

Procedure for organising disciplinary hearings

1. This procedure would need to be followed by both HR People Services and Governor Services in the advice they provide in the setting of hearing dates. It will also need to be followed by Trade Union representatives.
2. This procedure applies from any point in the process where it is confirmed that the employee will be represented by a Trade Union and the name of the representative is provided.
3. Once the union representative is known the clerk to governors, in consultation with the Headteacher (or chair of governors) and HR People Services, should provide dates that the staff disciplinary and dismissal committee are available to the representative (by phone or email) to obtain their availability. Where possible a couple of alternative dates should be provided, to ensure that hearings can be set up in a positive framework.
4. If the dates provided cannot be accommodated by the trade union representative, then the trade union should be asked to provide at least 2 alternative dates, (normally within 5 days of the last date previously offered), which can then be put to the staff disciplinary committee by the clerk for their availability. Where possible, in order to provide a positive framework, hearings should be accommodated within these alternative dates.
5. Once this process has been exhausted, it will be for the chair of the staff disciplinary and dismissal committee to provide one final alternative date, and it will be made clear that this is the final alternative, and only under exceptional circumstances (e.g. away on a pre-booked holiday, in-patient within a medical establishment) will a further alternative be provided. If the Trade Union representative is unable to attend on this final date, an alternative representative should be sought, If this is not possible and either, the employee attends without a trade union representative or neither the employee nor the Trade Union representative attend, then the hearing will still proceed.

GUIDELINES FOR DISCIPLINARY HEARINGS

INTRODUCTION

1. These guidelines for disciplinary hearings have been produced to provide further detail to school Staff Dismissal and Disciplinary Committees and Staff Dismissal and Disciplinary appeal Committees for appeal rehearings (the committee).
2. Implementing disciplinary action can be fraught with difficulty, particularly for committee members who are not experienced in such matters, and the consequences of any mistakes can be significant. Please note that these are guidelines only. Each disciplinary hearing/ appeal hearing will be different and committees are therefore advised to seek the assistance of HR People Services before embarking on any formal disciplinary action.

DATE OF THE HEARING

3. In accordance with the Disciplinary Policy and Procedures at least 7 working days notice must be given of the disciplinary hearing. See Appendix 5 for more detail on organising the hearing.

VENUE

4. The hearing should be held in a quiet and private place, any phones should be diverted and the Chair should ensure that there will be no interruptions. There must be adequate seating and refreshments should be made available if the hearing is likely to run for some time. At the least water should be provided.
5. As far as possible, the seating should be arranged in a non-confrontational manner. The committee will need to sit together on one side of the table, with the clerk and the advisers to the committee at each end. The management side and the employee and the trade union will sit on the other side of the table, with some space in between, which should include seating for any witnesses. As it is possible that all parties will need to refer to document bundles it is important that there is sufficient space for this.
6. There should be areas for witnesses to wait, if necessary keeping any witnesses called by management separate from any witnesses called by the employee.
7. The Chair should make arrangements for someone to clerk the hearing, usually it is the clerk to the governors but alternative arrangements may need to be made if the clerk is also an employee at the school.
8. Consideration should also be made, where appropriate, for the provision of reasonable adjustments to accommodate disabled employees . Other

circumstances may warrant an interpreter or facilitator if there are understanding or language issues.

HEARING PROCEDURE

9. The Chair should introduce all those present and explain the purpose of the hearing.
10. The Chair will outline the procedure that will be followed at the hearing, making sure that all present understand.
11. The Presenting Officer (who would normally be the Investigating Officer) will present the Management Case, setting out the allegations and giving evidence in support of the case. Documentary evidence may be presented, and witnesses called to give evidence. If an independent investigation has been undertaken then the investigating officer will attend as a witness called by the management side. As part of the case the Presenting Officer should outline how the disciplinary procedure has been followed.
12. The Chair will direct questions from the employee and/ or the Trade Union representative and then the committee will ask questions of the Presenting Officer.
13. The employee and/ or their Trade Union representative will present their case, call any witnesses and present any documentation relevant to the defence.
14. The Chair will direct questions from the Presenting Officer and the committee will then have the opportunity to ask questions of the employee.
15. Witnesses leave the room after they have given evidence and been questioned by both parties but should remain on hand in case of further questioning by the committee.
16. The Presenting Officer in the first instance and then the employee or their Trade Union representative will be given the opportunity to sum up their case. No new evidence will be allowed at this stage except to refer to the employees work record, including attendance, unspent disciplinary warnings, and mitigating circumstances, such as previous good record, etc.
17. The Chair will advise all parties that once the adjournment takes place to consider the issue, no further discussion will be allowed. The committee will then adjourn the meeting to make their decision. All parties will leave the room except the HR People Services representative.
18. If the committee requires clarification on a point from either side, both parties will be asked to reconvene, even though only one may be required to answer any questions.

19. The committee may find that further information is required, and decide to adjourn the hearing. In this case, they will advise both parties of the adjournment and the reasons for it.
20. In reaching a decision based on all the evidence presented, as a guide, the committee should consider the questions in Appendix 4.
21. If the committee is able to reach a decision both parties will be recalled and they will state whether the allegations are substantiated, what disciplinary action is to be taken and the rationale behind the outcome.
22. The Chair will then advise of the appeal rights, and the fact that the decision will be confirmed in writing within 7 calendar days.
23. The Headteacher is entitled to attend all hearings of the committee to give advice except where the headteacher is the person against whom the allegations are made, or the headteacher is a witness, or the headteacher is the presenting officer.

THE ROLE OF THE CHAIR

24. Chair the hearing and introduce that present, outline the reason for the hearing and the procedure to be followed.
25. Where the employee is not represented to ensure that they are aware of that right and has decided not to be represented.
26. To ensure the hearing is conducted in a formal and professional manner, and that the behaviour of all parties is appropriate and non intimidating, curtail arguments and raised voices, ensure normal social courtesies are observed and consider adjourning if tempers become heated.
27. To ensure that the employee is fully informed of the circumstances and understands the allegation made against them.
28. To review whether the correct procedures have been followed in bringing the case, and that the employee concerned has received the appropriate letters and communication leading up to the hearing.
29. To ensure that the hearing is conducted in a fair and reasonable manner and that the employee or representative has the opportunity to challenge what is being alleged and give their side of the story.
30. To review whether all possible avenues/ options have been examined throughout the procedure which would enable the parties to reach a satisfactory conclusion before bringing the case to a hearing.
31. To act in good faith.

32. To decide whether there are reasonable grounds to believe that the alleged offence was committed.
33. To decide whether disciplinary action should be taken.
34. To decide what disciplinary action should be taken, (if any) and only take disciplinary action that could be expected of a reasonable employer taking into account the nature and seriousness of the misconduct.

THE DISCIPLINARY DECISION

35. In taking disciplinary action the committee must believe that the employee is guilty of the offence, have reasonable grounds upon which to sustain that belief, and be content that there has been as much investigation as is reasonable under the circumstances and where appropriate, that the sanction is consistent with other cases.

Procedure for Appeals**Rehearing Appeal**

1. Where an appeal is to take the form of a complete rehearing the guidance in Appendix 6 should be followed by the Staff Dismissal and Disciplinary Appeal Committee.

Review Appeal

2. At the commencement of the review appeal hearing, the Chair of the Staff Dismissal and Disciplinary Appeal Committee will introduce all parties present, outline the procedure to be followed and will confirm that all parties understand the procedure. The Management Side will include the Chair of the Staff Dismissal and Disciplinary Committee who made the original decision. They will be present to explain the rationale for their decision.
3. The employee or their Trade Union representative will detail the grounds of appeal against the decision made at the original disciplinary hearing. Questions can be asked by the Appeal Committee and the Management Side.
4. Following this, the Chair of the original Dismissal and Disciplinary Committee will present the reasons for the decision the Committee made. Questions can be asked by the Appeal Committee and the employee or their Trade Union representative.
5. After both sides have provided their evidence, the employee or their Trade Union representative will be given the opportunity to sum up detailing the main points of their case. The Chair of the original Dismissal and Disciplinary Committee will be given the opportunity to sum up the main points of their case. No new evidence can be submitted at this stage.
6. Following the summing up stage, all parties will withdraw leaving only the Appeal Committee, the Clerk and the HR People Services Advisor.
7. In making its decision, the Appeal Committee can, if required, recall any of the parties involved to clarify any areas of misunderstanding or doubt. If one party is recalled, then the other party must be present to hear any questions and the answers provided.
8. The decision should be communicated in writing to the employee as soon as is reasonably practicable. The Appeal Committee's decision will be final and there are no further appeal rights within the School/ Council.

Standard letters (Annex J from WG document)

Letter (i)

**Sample letter inviting a member of staff to attend an investigation meeting
in respect of lesser or gross misconduct allegations**

Date

Dear

Investigation meeting

I write to request your attendance at an investigation meeting with (name of investigating officer) who is investigating the allegations made against you, in accordance with the school's disciplinary procedure (copy enclosed). Also present at the meeting will be (name of HR officer) from HR People Services and (name of person) to take the minutes. The allegations are:

- a) _____
- b) _____
- c) _____

The details of the meeting are as follows:

Date:

Time:

Location:

You are entitled, if you wish, to be accompanied by a work colleague or trade union representative. Please confirm that you have received this letter and whether you will be able to attend the meeting.

Yours sincerely

Headteacher/ Chair of Governors

CC: HR Officer
Trade Unions Representative (if known)

Sample letter inviting a witness to attend an investigation meeting in respect of lesser or gross misconduct allegations

Date

Dear

Request to Attend Witness Interview

An investigation is being carried out under the school's disciplinary procedure (copy enclosed) and within this process you have been identified as a potential witness. I am writing to request your attendance at an investigation meeting with (name of investigating officer) who is investigating an allegation made against (name of employee under investigation).

The details of the meeting are as follows:

Date:

Time:

Location:

You are entitled, if you wish, to be accompanied by a work colleague or trade union representative. Please confirm that you have received this letter and whether you will be able to attend the meeting.

Yours sincerely,

Headteacher/ Chair of Governors

CC: HR Officer
Trade Unions Representative (if known)

Letter (iii)

Sample letter to a witness to request their attendance at a disciplinary hearing for either lesser or gross misconduct

The hearing in respect of lesser misconduct allegations would be before the headteacher or chair of governors if about the headteacher.

Gross misconduct allegations would be heard by the governing body staff disciplinary and dismissal committee.

Date

Dear

Attendance as a Witness at Disciplinary hearing

Further to the investigatory interview you attended on (date), I am writing to inform you that you are required to attend as a witness at the disciplinary hearing of (name of employee under investigation).

The details of the hearing are as follows:

Date:

Time:

Location:

For lesser misconduct - The headteacher (or chair of governors if allegations are about the headteacher) will be hearing evidence concerning the allegation(s).

For gross misconduct - The governing body staff disciplinary and dismissal committee will be hearing evidence concerning the allegation(s).

You are entitled, if you wish, to be accompanied by a work colleague or trade union representative. Please confirm that you have received this letter and whether you will be able to attend the meeting.

Yours sincerely,

Headteacher/ Chair of Governors

CC: HR Officer
Trade Unions Representative (if known)

Sample letter to member of staff to request their attendance at a disciplinary hearing for lesser misconduct

Date

Dear

Disciplinary hearing

Further to the investigatory interview you attended on (date), I am writing to inform you that you are required to attend a disciplinary hearing under the school's disciplinary procedure.

The details of the hearing are as follows:

Date:

Time:

Location:

The headteacher (or chair of governors if allegations are about the headteacher) will be hearing evidence concerning the allegation(s). The purpose of the hearing is to provide you with the opportunity to explain and for consideration of whether disciplinary action should be taken, with regard to the following allegations:

Such allegations, if proven could constitute lesser misconduct and could lead to disciplinary action being taken against you.

I attach for your information copies of documents that will be used as evidence at the hearing. I confirm that *[insert name]* who will be the presenting officer has indicated that the following witnesses will be attending the hearing as part of the management case.

• *[Insert details]*

If you intend to use any documents as evidence or call any witnesses then you should let me have copies of the documents and a list of the witnesses at least 5 calendar days in advance of the hearing.

You are entitled, if you wish, to be accompanied by a work colleague or trade union representative. Please confirm that you have received this letter and whether you will be able to attend the hearing.

Yours sincerely

Headteacher/ Chair of Governors

CC: HR Officer
Trade Unions Representative (if known)

Sample letter for lesser misconduct – conclusion from a disciplinary hearing with the headteacher (chair of governors if about the headteacher), notice of final written warning

Date

Dear

Final written warning

I refer to the disciplinary hearing before the headteacher (chair of governors if about the headteacher) which you attended on (date). I am writing to confirm the decision taken that you be given a final written warning under the provisions of the school's staff disciplinary procedure.

The unsatisfactory conduct in respect of which this warning is given was:

The conduct improvement expected is:

This warning will be placed on your personal file, but will be disregarded for disciplinary purposes after a period of 12 months, subject to the maintenance of satisfactory conduct. For the avoidance of doubt this means that this warning will remain in effect until *[insert date]*.

The likely consequence of further misconduct/ insufficient improvement is your dismissal.

You have the right of appeal against this decision in writing to the clerk of the governing body within 5 school days of receipt of this letter.

Yours sincerely

Headteacher/ Chair of Governors

CC: HR Officer
Trade Unions Representative (if known)

Sample letter for lesser misconduct – conclusion from a disciplinary hearing with the headteacher (chair of governors if about the headteacher)

Date

Dear

Oral warning/ Written warning/ training and/or development

I refer to the disciplinary hearing before the headteacher (chair of governors if about the headteacher) you attended on (date). I am writing to confirm the decision taken that you be given an oral warning/ written warning/ be provided with training and/or development under the provisions of the school's disciplinary procedure.

The unsatisfactory conduct in respect of which this warning is given was:
_____.

The conduct improvement expected is:

This warning will be placed on your personal file, but will be disregarded for disciplinary purposes after a period of *[insert number]* months, subject to the maintenance of satisfactory conduct. For the avoidance of doubt this means that this warning will remain in effect until *[insert date]*.

The likely consequence of further misconduct or insufficient improvement may be a written/ final written warning.

You have the right of appeal against this decision and your appeal should be made in writing to the clerk of the governing body within 5 school days of receiving this disciplinary decision.

Yours sincerely

Headteacher/ Chair of Governors

CC: HR Officer
Trade Unions Representative (if known)

Sample letter for lesser misconduct – notice of appeal hearing with the staff disciplinary and dismissal appeals committee

Date

Dear

Invitation to attend a disciplinary appeal hearing

You have appealed against the provision of training and development/ oral warning/ written warning/ final written warning *[delete as appropriate]* given to you by the headteacher (or chair of governors in respect of the headteacher), and which was confirmed in writing to you on (date).

The appeal hearing *[you should specify whether a complete rehearing or an appeal on specific grounds is required]* will take place as follows:

Date:

Time:

Location:

It will be conducted by the staff disciplinary and dismissal appeals committee of the governing body.

You have the right to be accompanied by a work colleague or trade union representative. If your chosen representative is unable to attend the appeal hearing at the time given above, you may propose another date and time for the meeting to take place.

You should ensure that a copy/ copies/ agreed bundles of any written submissions, upon which you wish to rely at the appeal hearing, are submitted at least 5 school days before the hearing, together with the names of any witnesses that will be attending on your behalf. The members of the staff disciplinary and dismissal appeals committee are (names) .

The decision on this appeal hearing is final and there is no further internal right of review. The possible outcomes from the appeal hearing are: *insert details*].

If there is any aspect of this letter or of the staff disciplinary procedure, to the extent that it applies to you, that requires further clarification, please contact me.

Yours sincerely

Clerk of the Governing Body's Disciplinary and Dismissal Appeals Committee

CC: HR Officer

Trade Unions Representative (if known)

[In the case of disciplinary action against a headteacher, the letter should be sent by the chair of governors.]

Sample letter – conclusion of an appeal before a disciplinary appeal hearing against a training and development/ oral/ written warning given by the headteacher (chair of governors if about headteacher)

Date _____

Dear

Confirmation of outcome of staff disciplinary appeal hearing

You appealed against the decision made at the disciplinary hearing held on (date) when you were given a _____ warning in accordance with the staff disciplinary procedure. The appeal hearing, before the governing body staff disciplinary and dismissal appeals committee was held on (date).

I am now writing to inform you of the decision taken by the staff disciplinary and dismissal appeals committee who conducted the appeal hearing. The decision of _____ stands/ the decision of _____ is to be revoked *[amend as appropriate – specify if no disciplinary action is being taken or what the new disciplinary action is]*.

You have now exercised your right of appeal under the staff disciplinary procedure. The decision on the appeal hearing is final and there is no further internal right of review.

Yours sincerely

Clerk of the Governing Body's Disciplinary and Dismissal Appeals Committee

CC: HR Officer
Trade Unions Representative (if known)

[If the headteacher appeals against a warning given by the chair of governors under lesser misconduct, the appeal would be heard by the staff disciplinary and dismissal appeals committee.]

**Sample letter for gross misconduct – notice of a disciplinary hearing
before the staff disciplinary and dismissal committee**

Date _____

Dear

Staff disciplinary and dismissal committee hearing

I am writing to advise you that as a result of the investigation into allegations that *[set out summary details of the staff member's alleged misconduct]*, your attendance is required at a formal disciplinary hearing before the governing body staff disciplinary and dismissal committee. If the allegation(s) is/ are proven this could lead to the issuing of a written warning/ final written warning/ the termination of your employment *[delete as appropriate]*.

The hearing will take place as follows:

Date:

Time:

Location:

It will be conducted by the staff disciplinary and dismissal committee of the governing body. The governor members of the staff disciplinary and dismissal committee are (names).

You have the right to provide written submissions and to invite witnesses to give evidence in support of your case. You should ensure that a copy/ copies/ agreed bundles of any written submissions upon which you wish to rely at the hearing are submitted at least 5 school days before the hearing, together with the names of any witnesses that will be attending on your behalf. It is your responsibility to notify your witnesses about the date and time of the hearing.

I attach for your information copies of documents that will be used as evidence at the hearing. I confirm that *[insert name]* who will be the presenting officer has indicated that the following witnesses will be attending the hearing as part of the management case. *[Insert details]*

You will also have the right to appeal against the decision of the staff disciplinary and dismissal committee. You have the right to be accompanied by a work colleague or trade union representative. Please confirm that you have received this letter and whether you will be able to attend the hearing.

Yours sincerely

Clerk of the Governing Body's Disciplinary and Dismissal Committee

CC: HR Officer
Trade Unions Representative (if known)

[In the case of disciplinary action against a headteacher, the letter should be sent by the chair of governors.]

Sample letter for gross misconduct – conclusion from a disciplinary hearing with the staff disciplinary and dismissal committee

Date _____

Dear

Specified training and/or development/ oral warning/ written warning/ final written warning/ confirmation of decision to dismiss you from your employment [delete as appropriate]

You attended a disciplinary hearing before the governing body on (date) into allegations that (details). I am writing to confirm the decision taken that you be given specified training and/or development; or oral warning/ written warning/ final written warning or dismissed in accordance with the staff disciplinary procedure.

[A. The following words should be used for any sanction other than dismissal. This applies to any category of school.]

The training and development requirements identified are: _____
A letter confirming these training and development requirements will be placed on your personal file but will be disregarded after a period of _____ provided the required training and development has been satisfactorily undertaken.

This oral/ written/ final written *[delete as appropriate]* warning will be placed on your personal file but will be disregarded for disciplinary purposes after a period of _____. months *[i.e. insert actual date of sanction expiry]*, provided that: _____ *[please list the behaviours or improvements required or are to be achieved within the life of this warning]*.

You have the right of appeal against this decision and your appeal should be made in writing to the clerk of the governing body within 5 school days of receiving this disciplinary decision.

[B. The following words should be used for a sanction of dismissal.]

[For community, community special and voluntary controlled schools and maintained nurseries.]

The staff disciplinary and dismissal committee considered all the information received and the reason for recommending to the Local Authority your dismissal is as follows: _____ *[insert reason for dismissal]*.

You are advised that in circumstances where the disciplinary action is dismissal, in accordance with the Safeguarding Vulnerable Groups Act 2006 a referral will be submitted to the Independent Safeguarding Authority. (INSERT FOR CHILD PROTECTION CASES ONLY)

You are advised that in circumstances where the disciplinary action is dismissal due to unprofessional misconduct, in accordance with the education (Supply of Information) (Wales) Regulations 2009 a referral will be submitted to the GTCW. (INSERT FOR TEACHER CASES ONLY)

You have the right of appeal against this decision and your appeal should be made in writing to the clerk of the governing body within 5 school days of receiving this disciplinary decision.

Yours sincerely

Clerk of the Governing Body's Disciplinary and Dismissal Committee

CC: HR Officer
Trade Unions Representative (if known)

[Note: For the schools mentioned above the LA will issue the notice of dismissal within 14 school days of the appeal being heard.]

[For voluntary aided and foundation schools.]

The staff disciplinary and dismissal committee considered all the information received and the reason for your dismissal is as follows:
_____ *[insert reason for dismissal].*

You are advised that in circumstances where the disciplinary action is dismissal, in accordance with the Safeguarding Vulnerable Groups Act 2006 a referral will be submitted to the Independent Safeguarding Authority. (INSERT FOR CHILD PROTECTION CASES ONLY)

You are advised that in circumstances where the disciplinary action is dismissal due to unprofessional misconduct, in accordance with the education (Supply of Information) (Wales) Regulations 2009 a referral will be submitted to the GTCW. (INSERT FOR TEACHER CASES ONLY)

You have the right of appeal against this decision and your appeal should be made in writing to the clerk of the governing body within 5 school days of receiving this disciplinary decision.

Yours sincerely

Clerk of the Governing Body's Disciplinary and Dismissal Committee

CC: HR Officer
Trade Unions Representative (if known)

[Note: as the governing body in voluntary aided and foundation schools is the employer the governing body terminates the contract of employment and informs the local authority.]

Sample letter for gross misconduct – notice of appeal hearing before the staff disciplinary and dismissal appeals committee

Date

Dear

Invitation to attend disciplinary appeal hearing

You have appealed against the written warning/ final written warning/ dismissal *[delete as appropriate]* confirmed in writing to you on (date).

The appeal hearing *[you should specify whether a complete rehearing or an appeal on specific grounds is required]* will take place as follows:

Date:

Time:

Location:

It will be conducted by the staff disciplinary and dismissal appeals committee of the governing body. The members of the staff disciplinary and dismissal appeals committee are (names)

You should ensure that a copy/ copies/ agreed bundles of any written submissions, upon which you wish to rely at the appeal hearing, are submitted at least 5 school days before the appeal hearing, together with the names of any witnesses that will be attending on your behalf.

The decision on this appeal hearing is final and there is no further internal right of review. The possible outcomes from the appeal hearing are:
[insert details].

You have the right to be accompanied by a companion or trade union representative. Please confirm that you have received this letter and whether you will be able to attend the hearing.

Yours sincerely

Clerk of the Governing Body's Disciplinary and Dismissal Appeals Committee

CC: HR Officer
Trade Unions Representative (if known)

[In the case of disciplinary action against a headteacher, the letter should be sent by the chair of governors.]

Letter (xii)

Sample letter for gross misconduct – conclusion of the appeal hearing against warning/ dismissal

Date _____

Dear

Confirmation of outcome of disciplinary appeal hearing

You appealed against the decision made at the disciplinary hearing held on (date) when you were given a _____ warning/ or you were dismissed in accordance with the staff disciplinary procedure. The appeal hearing was held on (date).

I am now writing to inform you of the decision taken by the appeals committee who conducted the appeal hearing. The decision of _____ stands/ the decision of _____ is to be revoked *[amend as appropriate – specify if no disciplinary action is being taken or what the new disciplinary action is]*.

You have now exercised your right of appeal under the staff disciplinary procedure. The decision on the appeal hearing is final and there is no further internal right of review.

Yours sincerely

Clerk of the Governing Body's Disciplinary and Dismissal Appeal Committee

CC: HR Officer
Trade Unions Representative (if known)

Sample letter for gross misconduct – confirming suspension from duty

Date _____

Dear

Suspension from duty without prejudice

Thank you for attending the meeting today. In accordance with the staff disciplinary procedure, I am writing to confirm your suspension from duty as from (date) pending the current investigation into the gross misconduct allegation [insert details]. Other options were explored but were not considered appropriate because (give reasons)

[Insert name] has been assigned the role of investigating officer or I shall write to you again when I am in a position to be able to confirm who has been appointed to the role of investigating officer. You will be contacted in the near future to arrange a meeting, so that you may be given the opportunity to comment and provide a statement to the investigating officer on the above allegation.

You are reminded that the act of suspension is not disciplinary action and does not imply a presumption of guilt. But it is a necessary means of ensuring that a full and fair investigation can take place.

Enclosed is a copy of the school's staff disciplinary procedure. Please read the section entitled 'Suspension' as this details all the conditions relevant to you and your employment status while you are suspended from your place of work. You will note from the procedure that you may be accompanied at the above-mentioned meeting by a work colleague or trade union representative if you wish.

Whilst on suspension you remain an employee of the school and you must make yourself available to attend any investigatory interview and/ or disciplinary hearings and/ or to return to work in the event of the suspension being lifted. School policies will continue to apply during this period, e.g. sickness reporting, etc You must not enter your normal workplace or have any contact whatsoever with any other employees or service users who are, or who may be, involved in the investigation or in any subsequent disciplinary hearing(s), save where it is not reasonably practicable and where authorised in advance by myself or the headteacher. [For a letter in respect of the headteacher, 'headteacher' will be deleted.]

I must advise you that you should not seek to influence anyone else involved in this matter, to do so may be seen as an attempt to influence the investigation, which in itself may be a disciplinary matter. You must not use the school's Email system/ Website. If you have any personal belongings which remain at work you should contact (name) who will be available to assist you.

You must return immediately all school equipment and property in your possession, including any IT equipment, vehicles, mobile phones, warrant cards, ID cards, building access cards, office keys and vehicle keys.

I am also mindful of the isolation suffered by some members of staff who find themselves in such circumstances, therefore a contact officer has been designated who will facilitate any contact you may need with the school and/ or work colleagues. The person is (name) and they can be contacted on telephone 029 20.....

The continued suspension will be kept under review and I will write to you to notify you if it is considered that the suspension should continue or should come to an end, and the reasons for that decision.

Notwithstanding the above, I hope that the matters can be concluded promptly under the provisions of the school's disciplinary procedure.

* I understand you are a member of (name of union) and that you may wish your representative to be party to all correspondence we send to you. I would be grateful if you could let me know who your representative will be by return post. I have included a prepaid envelope for this purpose.

This letter constitutes written instructions and it is important that you abide by these instructions. Further support is available from your Trade Union, Employee Counselling Service (on Tel 029 2046 8568) and the Council's Occupational Health Service. Please acknowledge receipt of this letter by signing and returning the extra copy supplied to signify that you understand the terms of your suspension detailed above. I will write to you again as soon as further information is available.

Yours sincerely

Headteacher/ Chair of Governors

CC: HR Officer
Trade Unions Representative (if known)

* Optional

Sample letter for gross misconduct – confirming transfer as alternative to suspension from duty

Date _____

Dear

Transfer as an Alternative to Suspension from duty without prejudice

I write to confirm my decision that as an alternative to suspension you are to be transferred from your post as *(post)* in *(location)* to *(other duties and/or alternative workplace location)* pending internal investigation.

You have been transferred from your existing duties for the following reason/s *(give details of incident/ allegations)*.

This transfer is not a disciplinary action and you are to be transferred on full pay without prejudice whilst an internal disciplinary investigation is conducted. You will be expected to co-operate fully with this investigation.

EITHER

The effective date of commencement of transfer will be *(date)*. Please report to *(location)* at *(time and date)* and ask for *(name)*.

You must not have any contact whatsoever with any other employees or service users who are, or who may be, involved in the investigation or in any subsequent disciplinary hearing. I must advise you that you should not seek to influence anyone else involved in this matter, to do so may be seen as an attempt to influence the investigation, which in itself may be a disciplinary matter

OR

In order to organise the transfer it will be necessary to temporarily suspend you from all duties until necessary arrangements have been made and a start date confirmed. During this period you will remain on full pay.

Whilst suspended from your existing duties within the school you must make yourself available to attend any investigatory interview and/ or disciplinary hearings and/ or to return to your existing duties in the event of the suspension being lifted.

You must not have any contact whatsoever with any other employees or service users who are, or who may be, involved in the investigation or in any subsequent disciplinary hearing. I must advise you that you should not seek to influence anyone else involved in this matter, to do so may be seen as an attempt to influence the investigation, which in itself may be a disciplinary matter. A Contact Officer has been designated, who will facilitate any contact you may need with the school and/ or work colleagues. The person is *(name/designation)* and they can be contacted on telephone number 029 20.

You must return immediately all Council equipment and property in your possession, including any IT equipment, vehicles, mobile phones, warrant cards, ID cards, building access cards, office keys and vehicle keys.

* I understand you are a member of (name of union) and that you may wish your representative to be party to all correspondence we send to you. I would be grateful if you could let me know who your representative will be by return post. I have included a prepaid envelope for this purpose.

This letter constitutes written instructions and it is important that you abide by these instructions. Please acknowledge receipt of this letter by signing and returning the extra copy supplied to signify that you understand the terms of your transfer detailed above. I will write to you again as soon as further information is available.

Yours sincerely

Headteacher/ Chair of the Governing Body

CC: HR Officer
Trade Unions Representative (if known)

* Optional

Sample letter for gross misconduct – Outcome of suspension review

Date _____

Dear

Review of Suspension from duty without prejudice

I wish to confirm the outcome of the (4/8/12 or as appropriate) week review of my decision to suspend you from duty.

As previously confirmed you have been suspended for the following reason/s.....*give details of incident/ allegations.*

It is my decision that the suspension will remain in place. A further review will take place in 4 weeks and I will provide an update at that point.

I would like to remind you that whilst on suspension you remain an employee of the school and you must make yourself available to attend any investigatory interview and/ or disciplinary hearings and/ or to return to work in the event of the suspension being lifted. School policies will continue to apply during this period, e.g. sickness reporting, etc

As previously advised, further support is available from your Trade Union, Employee Counselling Service (on Tel 029 2046 8568) and the Council's Occupational Health Service should you require it.

Yours sincerely

Headteacher/ Chair of Governors

CC: HR Officer
Trade Unions Representative (if known)

Sample letter for interview progress review

Date _____

Dear

Review of Progress – Disciplinary Investigation

You have previously been informed of the disciplinary investigation regarding allegations of:

Enter details of the allegation(s)

In line with the school's disciplinary procedure a 4 week review of the progress of the investigation has taken place. I would like to inform you that:

Insert as appropriate

It is anticipated that the investigation will be concluded within the 8 week period recommended in the policy and you will be informed of the outcome in due course.

Or It is anticipated that the investigation will extend beyond the recommended 8 weeks due to (insert explanation).

A further review will take place in 4 weeks and I will provide an update on progress at that point.

Yours sincerely

Headteacher/ Chair of Governors

CC: HR Officer
Trade Unions Representative (if known)

Sample letter for lesser misconduct or gross misconduct – no action to be taken

Date _____

Dear

Investigation Meeting/ Disciplinary Hearing – No Action to be Taken

I refer to the *investigatory interview/ disciplinary hearing* I conducted on (*date*).

Following full discussion of the matter and your explanation, I have decided that *no disciplinary action should be taken against you/ there is no case to answer*, and the matter has now been closed.

Please accept my apologies for any distress that has been caused by these proceedings. I hope that you understand that they are a necessary method of fairly and carefully considering such matters.

Yours sincerely

Headteacher/ Chair of Governors

CC: HR Officer
Trade Unions Representative (if known)